

*United States Court of Appeals
for the Second Circuit*



**PETITIONER'S
BRIEF AND
APPENDIX**

NO. 76-4258

UNITED STATES COURT of APPEALS
FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,

Petitioner,

v.

HENRY M. HALD HIGH SCHOOL ASSOCIATION,

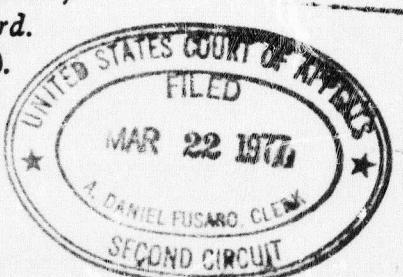
Respondent.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

B
pls

APPENDIX

ELLIOTT MOORE,
Deputy Associate General Counsel,
National Labor Relations Board.
Washington, D. C. 20370.



PAGINATION AS IN ORIGINAL COPY

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I N D E X

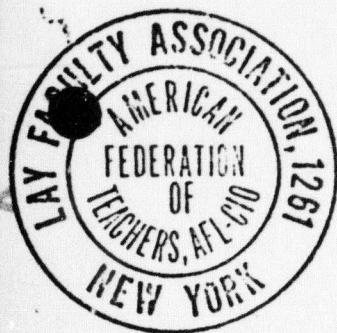
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1

CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

In the Matter of: Henry M. Hald High School Association
Board Case No. 29-CA-3482

7.23.73 Charge filed
9.17.73 First Amended Charge filed
10.31.73 Complaint and Notice of Hearing dated
11. 9.73 Respondent's Answer received
12. 3.73 Order Rescheduling Hearing dated
1. 4.73 Respondent's request for adjournment, dated
1. 7.73 Order Rescheduling Hearing dated
1.23.74 Hearing opened
1.24.74 Hearing closed
5.16.74 Administrative Law Judge's Decision issued
6.10.74 Respondent's Exceptions to the Administrative Law Judge's Decision received
9.24.74 Decision and Order of the National Labor Relations Board dated



2

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
Treasurer

Rev. Father Franklin E. Fitzpatrick
The Hald Association
The Superintendent of Schools
The Catholic Schools Office
345 Adams Street
Brooklyn, New York 11201

Dear Father Fitzpatrick:

Pursuant to Article IV of the collective bargaining agreement between the Lay Faculty Association, Local 1261, American Federation of Teachers, AFL-CIO and the Henry M. Hald High School Association, we hereby notify you, an officer of the Hald Association, of our intention to terminate our agreement as of August 31, 1973 under the sections (n) and (n) of Article IV. We also notify you of our desire to meet and begin negotiations with the Hald Association at a mutually agreeable time and place for a new collective bargaining agreement which will set forth the wages of the more than 550 lay teachers in our bargaining unit whom we represent.

Please contact the undersigned so that we may make arrangements toward negotiations of our next contract.

Very truly yours, Harry A. Kranepool

Harry A. Kranepool
President L.F.A. 1261

cc: Delson and Gordon
Executive Secretary

ENCLOSURE: Be sure to follow instructions on other side

PLEASE FURNISH SERVICE(S) INDICATED BY CHECKED BLOCK(S)
(Additional charges required for these services)

Show to whom, date and address
when delivered

Deliver ONLY
to addressee

RECEIPT

Received the numbered article described below
REGISTERED NO. SIGNATURE OR NAME OF ADDRESSEE (Just always be filled in)

Re: P.C.C. - 10/26/73
SIGNATURE OF ADDRESSEE'S AGENT, if any

BEST COPY AVAILABLE

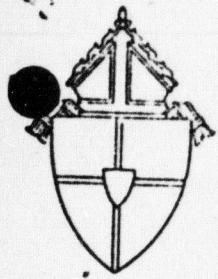
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INSURED NO.

DATE DELIVERED

JAN 10 1973

DATE WHEN DELIVERED (copy if requested, and leave in this column)



THE CATHOLIC SCHOOLS DIOCESE OF BROOKLYN

345 ADAMS STREET • 212 855-1511
BROOKLYN, NEW YORK 11201

3
OFFICE OF THE SUPERINTENDENT OF SCHOOLS

January 18, 1973

NATIONAL LABOR RELATIONS BOARD
Docket No. 29-CB-3182, Case No. L-4

Mr. Harry A. Kranepool
President, LFA 1261
574 East 28 Street
Brooklyn, New York 11210

Dear Mr. Kranepool:

I wish to acknowledge receipt of your letter of January 8 in which you indicate your desire to meet and begin negotiations relative to a new collective bargaining agreement for the teachers who are members of Local 1261, American Federation of Teachers.

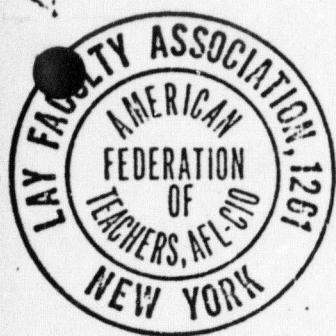
Brother Medard Shea, Assistant Superintendent for Personnel, will communicate with you to arrange mutually satisfactory times and places for such meetings.

All personal best wishes.

Sincerely yours,

Franklin E. Fitzpatrick
Rev. Franklin E. Fitzpatrick
Superintendent of Schools

cc: Brother Medard Shea, CFX



4 Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
President

March 25, 1973

Bro. Medard Shea, C.F.X.
Assistant Superintendent
The Henry M. Held High School Association
345 Adams Street
Brooklyn, New York 11201

Dear Brother Medard:

Attached, please find a copy of the proposals of the Lay Faculty Association, Local 1261, American Federation of Teachers, AFL-CIO.

These proposals are presented in the form of general statements and are subject to further clarification at our bargaining sessions.

Very truly yours,

Harry A. Kranepool
Harry A. Kranepool
President

NATIONAL LABOR RELATIONS BOARD
Docket No. 29-111-3482 OFFICIAL COPY NO. D.C.-5A

Received }
Date 11/3/74 Witness 141
No. Pages

BEST COPY AVAILABLE

In the matter of 141-141
Date 11/3/74 Witness 141
No. Pages

3/29 March

5

3

LAY FACULTY ASSOCIATION, LOCAL 1261, AFT, AFL-CIO

March 1973

Proposals:

1. A cost of living salary increase of 12.4% applicable to each step in each column of the salary scale. Teachers who are beyond the steps in any column shall have their salaries raised to that of the last step in their column and, under no circumstance shall the salary of any teacher be lowered.
2. Stipend for Chairman ----- \$600
Stipend for Asst. Chairman ---- \$600
Stipend for Asst. Chairman ---- \$400
3. Permanent Certification = Master's Degree for all vertice lanes, including M.A. + 30.
4. Dates for presentation of courses for salary credit shall changed from September 1st and January 1st to October 1st and February 1st.
5. Salary protection via unemployment insurance for all teach
6. Salary protection via income insurance applicable during hospitalization.
7. Voluntary deduction from salary for auto and home/apartme insurance.

NATIONAL LABOR RELATIONS BOARD
Docket No. 27-147348

Deponion J
In the matter of Held Assoc.
Date 1/23/74 Witness C. O.
No. Pages 1



6

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
President

April 3, 1973

Brother Eddard Shea, CFA
Catholic Schools Office
345 Adams Street
Brooklyn, New York 11201

Dear brother Eddard:

Re: Negotiations

The Lay Faculty Association, Local 1261, AFT, AFL-CIO would like to formally request a meeting of the negotiating teams on April 10, 1973 at St. Francis at 3:15 P.M. Purpose of the meeting: 1) to receive the requested information from the school Association and 2) to discuss the proposals made at this time.

Yours truly,

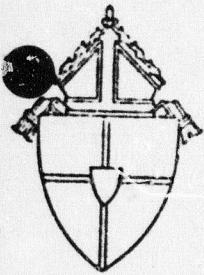
HARRY A. KRANEPOOL
President

HAK: we

NATIONAL LABOR RELATIONS BOARD
ocket No. 28-C-14-13462
Case No. 12-C-6

In the matter of MetLife
Date 1/23/74 Witness Reporter C.P.
No. Pages 1

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THE CATHOLIC SCHOOLS DIOCESE OF BROOKLYN

345 ADAMS STREET • 212 855-1511
BROOKLYN, NEW YORK 11201

7
O
OFFICE OF THE SUPERINTENDENT OF SCHOOLS

April 9, 1973

Mr. Harry A. Kranepool, President
Lay Faculty Association
574 East 28 Street
Brooklyn, New York 11210

Dear Mr. Kranepool:

Re: Negotiations

Unfortunately, your letter of April 3 in regard to a negotiation meeting did not come to my attention until this morning since I was not in my Office on Friday, April 6.

As a result, I am unable to get our bargaining team together on what amounts to a one-day notice for a meeting on April 10, tomorrow. May I request that you suggest some alternate dates for this proposed meeting. We are interested in having another meeting without undue delay. More advanced notice will be appreciated.

Sincerely yours,

Brother Medard Shea, C.F.X.
Brother Medard Shea, C.F.X.
Assistant Superintendent

*Received
4/10/73*



8

Lay Faculty Association

L.F.A.

HARRY A. KRANEPOOL
President

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

April 10, 1973

Brother Medard Shea, CFX
Catholic Schools Office
345 Adams Street
Brooklyn, New York 11201

Dear Brother Medard,

Re: Negotiations

I take strong exception to your letter dated April 9, 1973 regarding the meeting date.

This date was suggested by me at the bargaining table two weeks ago as a suggested meeting date. As a courtesy, I wrote you a note to remind you of that suggestion.

Yours truly,

Harry Maranepool
President

HAKIWE



MESSAGE CONFIRMATION COP

9

H. A. KRAEPPEL
574 EAST 26 ST
BROOKLYN, NY 11210

2127833943 FROM BROOKLYN NY 43 04-12 0516P EST
PMS REVEREND FRANKLIN E FITZPATRICK, DMR
HENRY T HALE ASSOC CATHOLIC SCHOOLS OFFICE DIOCESE OF BROOKLYN
345 ADAMS ST
BROOKLYN, NY 11201

THIS IS TO INFORM YOU THAT THE LAY FACULTY ASSOCIATION IS AND
HAS FOR SOME TIME BEEN READY TO NEGOTIATE WITH YOU AT ANY TIME
AND IN ANY PLACE. WE'LL WAIT AND EXPECT YOUR ASSIGNMENT OF
A DATE AND PLACE BY RETURN MAIL.

HARRY A. KRAEPPEL PRESIDENT LAY FACULTY ASSOCIATION

NATIONAL CIVIL RIGHTS MUSEUM
EXHIBIT NO. 5.C.9
Docket No. 29-1974-Submissions Board
Distribution: *Handwritten*
Identified: *Handwritten*
Filed: *Handwritten*
Rejected: *Handwritten*
In the matter of: *Handwritten*
Date: *1/23/74* Witness: *Handwritten* Reporter: *C.B.*
No. P-335

BEST COPY AVAILABLE



10
MESSAGE CONFIRMATION COPY

H. A. KRAEPOUL
574 EAST 26 ST
BROOKLYN NY 11210

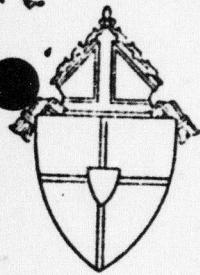
2127683913 TO/T BROOKLYN NY 43 04-12 0517P EST
PMS BROTHER MEDARD SHEAEX/ DLR
HENRY A HALL ASSOC CATHOLIC SCHOOLS OFFICE DIOCESE OF BROOKLYN
345 ADAMS ST
BROOKLYN NY 11201

(THIS IS TO INFORM YOU THAT THE LAY FACULTY ASSOCIATION IS AND
HAS FOR SOME TIME BEEN READY TO NEGOTIATE WITH YOU AT ANY TIME
AND IN ANY PLACE. WE'LL WAIT AND EXPECT YOUR ASSIGNMENT OF
A DATE AND PLACE BY RETURN MAIL

HARRY A. KRAEPOUL PRESIDENT LAY FACULTY ASSOCIATION

UNION OF LABOR RELATIONS BOARD
25-CH-7122 OFFICIAL EXHIBIT NO. 32-C-16
Disposition { Identified
Approved
Rejected
In the matter of Hold August
Date 1/23/74 Witness 1 poster 15
No. Pages

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THE CATHOLIC SCHOOLS DIOCESE OF BROOKLYN

345 ADAMS STREET • 212 855-1511
BROOKLYN, NEW YORK 11201

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

April 16, 1973

Lay Faculty Association-Local 1261
574 East 28 Street
Brooklyn, New York 11210

Attention: Harry A. Kranepool, President

Dear Mr. Kranepool:

Notwithstanding our suggestion that we await the outcome of the Supreme Court decisions concerning Government aid to our schools, which aid has been challenged by A.F.T. leaders and affiliated organizations, it appears that Local 1261 wishes to meet for negotiations concerning the new salary schedule to go into effect on September 1, 1973.

In light of your telegram, received on April 13, we have arranged a meeting for Thursday, May 3, at St. Francis College, Room 100 R, at 3:30 PM.

Please confirm at your earliest convenience.

Sincerely yours,

Brother Medard Shea, C.F.X.
Brother Medard Shea, C.F.X.
Assistant Superintendent

NATIONAL LABOR RELATIONS BOARD

Case No. 24-12-2482 OFFICIAL EXHIBIT NO. 17-C-11

Def. filed Y
Counsel
Survived
Decided

In the matter of 17-C-11
Date 16/4/73 Witness 17-C-11
No. Pages 1

SCHOOL Consolidated High

12

LAY FACULTY

1972-73

BA BA + 15 BA + 30 MA MA + 15 MA + 30 Ph.D

56	4	2	18				
26			4	1	2		
15	6	5	3	1	1		
34	15	9	6	2			
11	11	4	12	5	2		
15	2	11	12	5	4		
11	10	8	16	6	8		
31	4	6	6	1	8		
	9	3	7	10	3		
	11	10	8	5	1		
TOTAL: 551		24	1	9	3		
			10	3			



13

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
President

April 17, 1973

Bro. Medard Shea, C.F.X.
Assistant Superintendent
"The Henry M. Hald High School Association
Catholic Schools Office
Diocese of Brooklyn
345 Adams Street
Brooklyn, New York 11201

Dear Brother Medard:

With reference to your long-awaited correspondence of April 16, 1973, as we explained, we are willing to meet with you at any time and therefore shall be at St. Francis College on May 3, 1973 in Room 100 R at 3:30 P.M.

We ask, once again, that you understand that our proposals are not in any way contingent upon decisions of any court regarding aid, though we have noted little public effort to obtain such aid on the part of the "Hald Association."

Very truly yours,

Harry A. Kranepool
President

STAMP: To save time follow instructions on other side

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SIGNATURE OR NAME OF ADDRESSEE (Must always be filled in)

CL. I.O.

H. A. Kranepool

INSURED NO.

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY

DATE DELIVERED

SHOW WHERE DELIVERED (Only if requested, and include ZIP Code)

APR 18 1973



14

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L. F. A.

HARRY A. KRANEPOOL
President

CERTIFIED MAIL

May 8, 1973

Rev. Franklin E. Fitzpatrick
Superintendent
"The Henry M. Hald High School Association" Docket No. 9-61-3467
Catholic Schools Office
Diocese of Brooklyn
345 Adams Street
Brooklyn, New York 11201

NATIONAL LABOR RELATIONS BOARD
OFFICIAL EXHIBIT 2014

Disposition	{	Identified <input checked="" type="checkbox"/>
		Received <input checked="" type="checkbox"/>
		Rebated <input type="checkbox"/>

In the manner of Hald High School
Date 5/23/74 witness John A. Kranepool

Dear Father Fitzpatrick:

The Lay Faculty Association, once again, awaits your response concerning our proposal that a meeting be held either May 8, 1973, May 11, 1973, or May 15, 1973. As today is May 8, 1973 we assume that we will not be meeting today.

Please do us the courtesy of responding. We wish to make it very clear to you that we have no intention of waiting for the Diocese to feel like bargaining and that this constant refusal to bargain will cause us to take appropriate action to protect the rights of our members.

We await your reply.

Very truly yours,

Harry A. Kranepool

Harry A. Kranepool
President

SENDER: Be sure to follow instructions on other side

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(Additional charges required for these services)

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REGISTRATION NO.

CONFIRMED NO.

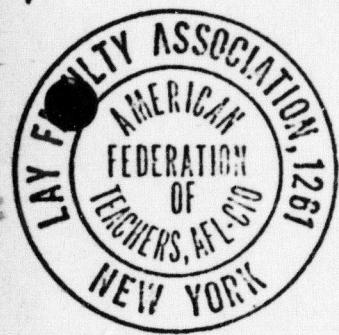
INSURED NO.

DATE RECEIVED

DATE WHERE DELIVERED (Only if requested, and include ZIP Code)

Harry A. Kranepool

SIGNATURE OF ADDRESSEE'S AGENT, IF ANY



15

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
Treasurer

May 21, 1973

Brother Medard Shea, CPX-
Assistant Superintendent of Schools
Catholic Schools Office
345 Adams Street
Brooklyn, New York 11201

Dear Brother Medard:

The Lay Faculty Association, Local 1261, again repeats its offer to meet with the Guild Association and its Diocesan Counsel at a good faith and mutual bargaining session at any time and at any place. The Guild Association has had our meeter proposals since March 15 and we have not as yet received a response that is relevant to our proposals.

We await your response.

Yours truly,

Harry A. Kranepool
President, Local 1261

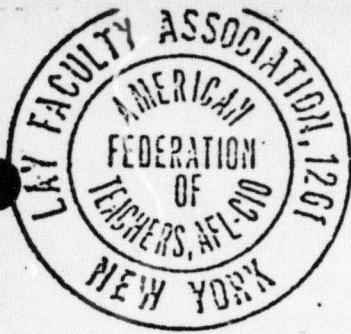
HAK: we

NATIONAL LABOR RELATIONS BOARD
Docket No. 29-CP-345
OFFICIAL EXHIBIT NO. 126-15

Disposition	{	Identified	✓
		Received	_____
		Rejected	_____

In the matter of Held Date 1/13/74 Witness ✓
No. Pages 1

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16

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
President

June 15, 1973

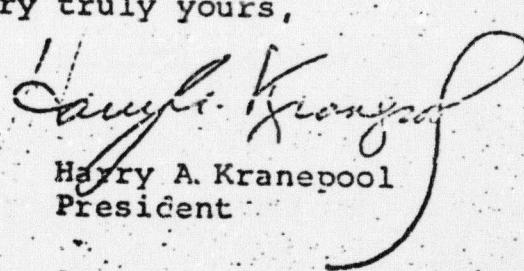
Bro. Medard Shea, C.F.X.
Assistant Superintendent
"The Henry M. Hald High School Association"
Catholic Schools Office
Diocese of Brooklyn
345 Adams Street
Brooklyn, New York 11201

Dear Brother Medard:

Once again, the Lay Faculty Association requests that you set a date, time, and place for a meeting in order that we might begin negotiations. We note that you have refused to negotiate with us for over two months, though we have made repeated requests.

Hoping to hear from you shortly, I remain.

Very truly yours,


Harry A. Kranepool
President

HAK:we

cc: Delson & Gordon
~~RECORDED~~

NATIONAL LABOR RELATIONS BOARD
Docket No. 74-CA-3482
Chairman E. J. H. No. C-16

In the name of
Date 1/23/74
No. Pages

Hald Assoc.



17

L.F.A.

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

HARRY A. KRANEPOOL
President

June 29, 1973

Brother Medard Shea, C.F.X.
Assistant Superintendent
Henry B. Ward Association
Catholic Schools Office
345 Adams Street
Brooklyn, New York 11221

Dear Brother Medard:

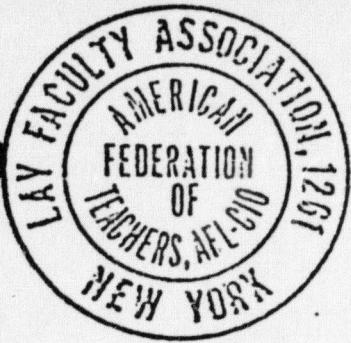
I am in receipt of your letter dated June 27, 1973. After conferring with our counsel, it is our understanding that both councils have established July 6th as a meeting date at Saint Francis College at 10:00 A.M. for the purpose of collective bargaining. I understand that your counsel, Mr. Burke, will be present as well as other Diocesan representatives excluding yourself. I together with our counsel and our representatives will be present at this meeting. We are aware that you will be unable to be present due to a prior commitment in Albany. However this meeting has already been established.

We are hopeful that this meeting on July 6th will be a productive collective bargaining session.

Yours truly,

Harry A. Kranepool
Harry A. Kranepool
President Local 1261

NATIONAL LABOR RELATIONS BOARD
DEC 19 1973
D.C.17
OFFICIAL RECORDS
In the matter of Hallmark
Date 12/2/73
No. P-
Ruler: C.B.



18

Lay Faculty Association

574 EAST 28th STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
President

July 16, 1973

NATIONAL LABOR RELATIONS BOARD
Docket No. 29-CA-7453
OFFICIAL EXHIBIT 17.C.18

Bro. Medard Shea, C.F.X.
Assistant Superintendent
"The Henry M. Hald High School Association"
Catholic Schools Office
Diocese of Brooklyn
345 Adams Street
Brooklyn, New York 11201

Disposition {
Identified _____
Serialized _____
Indexed _____
Filed _____

In the matter of Hald Assoc.
Date 1/23/74 witness _____
No. Page _____
Reporter _____

Dear Brother Medard:

This is to inform you that the Lay Faculty Association rejects your suggestion to postpone our negotiations until August 8, 1973. This date is too late in view of the fact that our Contract salary provisions expire on August 31, 1973 and school re-opens less than a week later. The Lay Faculty Association intends to advise its membership not to return to work in the Fall until the new salary provisions are agreed upon.

Further, the Lay Faculty Association does not understand your unilateral decision to "go on vacation" less than a month before Contract expiration in that such "vacations" have, in the past, been agreed upon mutually.

We are unable to accept this action on your part as anything other than continued refusal to bargain. Hoping to hear from you shortly, I remain

Very truly yours,

Harry A. Kranepool
Harry A. Kranepool
President

HAK:we

cc: - Delson & Gordon
- New York State United Teachers

CLIFTON BUDD & BURKE
420 LEXINGTON AVENUE

19

212-660-3350

THOMAS A. BRENNAN, SR.
COUNSEL

NEW YORK, N.Y. 10017

UNION-L LABOR RELATIONS BOARD
Docket No. 29-CIT-3182 SPECIAL EVENT NO. D.C. 14

July 11, 1973

Received Disputed

Rejected

In the matter of Henry M. Hald High School Association
Date 1/2/74

William Basedow, Esq.
Delson & Gordon
230 Park Avenue
New York, New York

Re: Statistical Data Concerning
Member Schools of the Henry M. Hald
High School Association

Dear Mr. Basedow:

Pursuant to the request made by the Lay Faculty Association at our bargaining session on July 6th, I am enclosing the following material for your information:

1. Projected consolidated lay faculty schedule for the 1973 - 1974 school year

2. A projected student population breakdown for the 1973 - 1974 school year

3. A synopsis of the grant-in-aid program for the 1972 - 1973 and 1973 - 1974 school years

I have not been able to obtain a statement of projected income and expenses for the 1973 - 1974 school year at this time; but as soon as such a statement is available, I will forward it to your office. I trust that this information will be of assistance to the Lay Faculty Association in resolving the current round of negotiations in a speedy and satisfactory manner.

Sincerely,

CLIFTON BUDD & BURKE

By

Edward J. Burke

EJB:MR

Enc.

CC: [unclear]

Lay Faculty1973-74

BA	BA + 15	BA + 30	MA	MA + 15	MA + 30	Ph.D
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ANTICIPATED STUDENT POPULATION: 1973-1974

ST. BRENDAN	800
BISHOP FORD	1,425
BISHOP LOUGHLIN	1,200
NAZARETH	1,420
CHRIST THE KING	2,450
MATER CHRISTI	2,526
BISHOP REILLY	2,100
	—
	11,921

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GRANT-IN-AID

SCHOOL	Total Number of Grants Given		+increase -decrease	Total Amount of Grant Given (including escrow)	
	1972-1973	1973-1974		1972-1973	1973-1974
ST. BRENDAN	132	73	-59	\$ 31,575	\$ 35,400
BISHOP FORD	295	215	-80	75,650	66,450
BISHOP KEARNEY	206	---	-206	56,375	----
BISHOP LOUGHLIN	371	374	+ 3	115,470	156,350
BISHOP McDONNELL	299	---	-299	109,600	----
NAZARETH	260	193	-67	76,900	67,050
CHRIST THE KING	217	99	-118	38,875	23,100
MATER CHRISTII	452	260	-192	149,475	109,250
BISHOP REILLY	152	99	-53	32,300	27,400
TOTALS:	2,384	1,313	-1,071	\$ 686,220	\$ 485,000
					-201,220

7/16/

Official Copy

FEDERATION OF TEACHERS, A.F. L-CIO AND
the HENRY M. HALD HIGH SCHOOL ASSOCIATION

NATIONAL LABOR RELATIONS BOARD

Docket No. 1000

OFFICIAL EXHIBIT NO. General Counsel's Exhibit 2

July 25 1973

Identified

Received

Rejected _____

Article
No.

Title

Disposition

Introduction

In the matter of _____

Witnesses _____

Witness _____

Reporter S. Solomon

1-2

No. Pages

I.	General Policy	3-
II.	Management Rights	5
III.	Recognition	6
IV.	Salary and Related Provisions	8
V.	Group Health Insurance	13
VI.	Group Life Insurance	13
VII.	Disability Insurance and Benefits	14
VIII.	Sick and Personal Business Days	14
IX.	Sabbatical Leave	16
X.	Jury Duty Leave	19
XI.	Maternity Leave	20
XII.	Military Leave	21
XIII.	Funeral Leave	21
XIV.	Leave for Union President	22
XV.	Membership in Professional Associations	23
XVI.	Pension Plan	23
XVII.	Annuity Plan	23
XVIII.	Payroll Savings Plan	24
XIX.	Extra Curricular Activities	24
XX.	Assignment of Teacher's Dependents	24

ARTICLE IVSALARY AND RELATED PROVISIONS

A. The salary schedule listed in Appendix "A" shall be in effect from September 1, 1972 to August 31, 1973. The salary schedules shall be based upon a ten-month period of work made payable in twenty-four equal installments (on the 15th and last day of each month). The past practice in each school shall govern the number of days a teacher is required to report during this ten month period.

B. Teachers who are formally appointed to the position of, and are actively engaged in the duties of, a "Department Chairman," "Acting Department Chairman," "Assistant Department Chairman" and "Coordinator" as defined by the Association-Union Handbook shall receive additional compensation according to the following schedule:

Department Chairman: \$600.00

Acting Department Chairman \$400.00

Assistant Department Chairman. \$200.00

Coordinator to be determined

on an individual basis provided however that the maximum annual payment will not exceed \$200.00, and provided further, that annual payments of between \$100.00 and \$200.00 will be made only

Also acceptable will be courses in the specific subjects in which the teacher will render his services in the classroom, such as Developmental Reading, teaching the Retarded Child, and all graduate courses related to education will be accepted provided that they are obtained from accredited institutions as defined above.

E. The Association will have the option to approve credits toward salary increases that are not applicable toward a degree and which are not on the approved list of courses as set forth in paragraphs C and D above.

F. The Association agrees to accept the Permanent New York State Teacher License as equivalent to that of a Master's Degree for salary purposes only, and the teacher's salary will be adjusted to this scale upon presentation of this license to the Principal of the School where he is teaching, as provided for in Section I below.

G. A teacher, who has been awarded a Permanent New York State License to teach and has successfully completed fifteen (15) additional credit hours of study from an accredited institution (as defined in Section C above) not related to or required by New York State for permanent Certification, will be paid on the M. A. + 15 line in the salary schedule.

New York State Certification, said credit shall be applicable for salary purposes beyond the B. A. and M. A. level.

L. Non-renewal of employment for the following school year shall not affect the summer salary paid to a teacher according to the provisions of the Agreement.

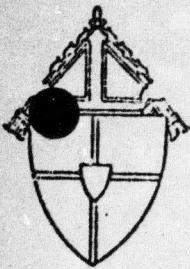
M. The provisions of this Article shall be in full force and effect up to and including August 31, 1973, unless renewed by the parties for the 1973-74 school year. Should either party wish to reopen negotiation on this Article only (excluding all other benefits, terms and conditions of this Agreement) on or about March 1, 1973, it may do so by notifying the other party in writing on or about February 1, 1973.

N. Should negotiations be reopened as provided for hereinabove in Section M and unless otherwise agreed upon by the parties, the provisions of Article XXXVII (Obligations of the Teachers and the Union) shall be waived effective September 1, 1973 insofar as they apply to this article only. Notwithstanding the above, Article XXXVII shall continue in full force and effect throughout the life of the Agreement in connection with all other provisions of this Agreement.

ARTICLE XXVIIITERMINATION OF EMPLOYMENT

A. The Principal who has determined to terminate the employment of a non-tenured teacher during the school year shall give at least forty-five (45) days written notice of the termination (or forty-five (45) days pay in lieu of said notice at the discretion of the Principal) stating the reason(s) for said termination, provided prior warning has been given to said non-tenured teacher that he may be terminated should he not correct the deficiencies called to his attention by the Principal. Where said prior warning is given to a teacher in writing a copy of said warning shall be included in the teacher's performance file. Said written prior warning shall be processed for filing in the same manner as the evaluations of the teacher's performance.

B. Notwithstanding any other provisions of this Agreement, the Principal has the right to terminate the employment of any non-tenured teacher immediately for good cause, provided, however, that the teacher is informed in writing of the reason(s) for termination and provided that the teacher is granted an opportunity to discuss the pending termination of employment with the Principal before the pending termination becomes effective.



THE CATHOLIC SCHOOLS DIOCESE OF BROOKLYN.

345 ADAMS STREET • 212 855-1511
BROOKLYN, NEW YORK 11201

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

July 26, 1973

Mr. Harry A. Kranepool, President
Lay Faculty Association
574 East 28th Street
Brooklyn, New York 11210

Dear Mr. Kranepool:

Father Joseph P. Bynon, Superintendent of Schools, has referred your request for an appointment (letter of July 16th) to my attention as the responsible party in the Schools Office for Union matters.

Please be assured that I will meet with you at any mutually convenient time to discuss whatever matters you wish of interest to the Diocese of Brooklyn or the Lay Faculty Association.

Sincerely yours,

Brother Medard Shea, C.F.X.
Brother Medard Shea, C.F.X.
Assistant Superintendent
Henry M. Hald High School Association

BMS:jd

cc: Reverend Joseph F. Bynon

Accord 1 July 29, 1973
6th

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28a

Lay Faculty Association

574 EAST 23rd STREET
BROOKLYN, NEW YORK 11210

L.F.A.

HARRY A. KRANEPOOL
President

August 27, 1973

Bro. Medard Shea, C.F.X.
Assistant Superintendent
Catholic Schools Office
Diocese of Brooklyn
345 Adams Street
Brooklyn, New York 11201

Dear Brother Medard:

Once again, the Lay Faculty Association requests that it be provided with the salary and other wages of the teachers in our bargaining unit. This information is necessary in order that we might properly represent our teachers and the union is, quite clearly, entitled to such information.

Your delay in this matter is difficult to understand inasmuch as all of this information is easily available to you through your computer system. We will wait an additional short period for the information.

Very truly yours,

Harry A. Kranepool
President

HAK:we

cc: -Delson and Gordon
-New York State United Teachers

NATIONAL LABOR RELATIONS BOARD

Docket No. 79-11-3482 OFFICIAL EXHIBIT NO. 10.22

Disposition	Identified	<input checked="" type="checkbox"/>
	Received	<input checked="" type="checkbox"/>
	Rejected	<input type="checkbox"/>

In the matter of 1123/74 10.22
Witness 1123/74 Reporter C.B.

No P.

Attendance Sheet - Toy faculty 1972-73

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Notes on *Chloris* (Berg)

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CLIFTON BUDD & BURKE
420 LEXINGTON AVENUE

38

212-888-3350

THOMAS A. BRENNAN, SR.
COUNSEL

NEW YORK, N.Y. 10017

May 10, 1973

Mr. Harry A. Kranepool
President
Lay Faculty Association
Local 1261
American Federation of Teachers, AFL-CIO
574 East 28th Street
Brooklyn, New York 11210

Dear Mr. Kranepool:

Your correspondence addressed to Father Fitzpatrick, concerning contract negotiations between the Henry M. Hald High School Association and Local 1261, has been referred to me for a reply. So that we may proceed in an orderly fashion, I would again request that correspondence concerning the Henry M. Hald High School Association and Local 1261 matters be addressed either to Brother Medard Shea, C.F.X., or myself.

You will recall that at our last bargaining session, we pointed out the limited scope of these negotiations and the fact that any new salary provision would not be effective until September 1, 1973. Based on these facts and the present uncertainties as to governmental aid, which, as you know, has been challenged in the courts by leaders of your parent organization, and student enrollment for the 1973 - 74 school year, it would seem desirable to both sides that we defer specific commitments concerning salary for a month or so when a more definite understanding of the Association's income for 1973 - 74 will be available to us. At our last meeting on May 3, we indicated to you that we were prepared to continue the negotiations at that time or at any other time that you felt that you had additional material or information to present to us. Your Local 1261 representative stated at that time that they had nothing more to say until such time as the Association put forth a specific salary proposal. If this is still the position of Local 1261, I would again suggest that we await

Rx 1-24-74
PR

Mr. Harry A. Kranepool
Page 2
May 10, 1973

the information on income through governmental aid and tuitions so that we will have a firm basis for any proposals the Association would make.

Again, if Local 1261 does have additional information in connection with the negotiations that, in your judgment would make a meeting desirable at this time, the Association's representatives would be happy to meet with you.

I shall await your response.

Sincerely,

CLIFTON BUDD & BURKE

By

Edward J. Burke

EJB:MR

CC: Rev. Brother Medard Shea, C.F.X.

40

June 27, 1973

Mr. Harry A. Karpispol, President
Key Services Corporation
574 West 27th Street
New York, New York 10001

Dear Mr. Karpispol:

In your letter of June 15, 1973, you request that we consider your proposal for a meeting to consider reorganization. In our telephone call this morning you advised your manager that you would be available to be present at the meeting and that the meeting would be held at your present location, 574 West 27th Street, New York. Thus, we naturally agreed to try to arrange a meeting on Tuesday, July 10th, at 10:00 AM at the office of Mr. Karpispol.

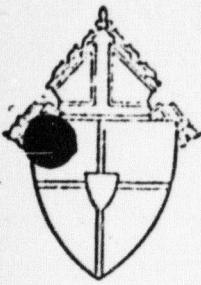
We will let you know when our both schedules are available and what day and time will be chosen.

Sincerely yours,

Brether Richard Shee, C.E.O.
Assistant Secretary to the

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7-1-73
FBI - NEW YORK



41

THE CATHOLIC SCHOOLS DIOCESE OF BROOKLYN

345 ADAMS STREET • 212 655-1511
BROOKLYN, NEW YORK 11201

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

July 25, 1973

Mr. Harry A. Kranepool, President
Lay Faculty Association, Local 1261
American Federation of Teachers, AFL-CIO
57½ East 28th Street
Brooklyn, New York 11210

Re: Your letters of July 16, July 19
Mr. Basedow's letter of July 19

Dear Mr. Kranepool:

My apologies for seeming to "banter" (your letter of July 17th) with you. In reality, I am most serious in my reply and the temptation to far more than "banter" is very strong in the face of a veritable cascade of letters and complaints, grievances, subpoenas, telegrams and press releases. I am replying to three pieces of correspondence, two from you, and one from Mr. William Basedow. Of necessity, I must use this summary technique in replying.

Re: Your July 16th letter regarding negotiation dates.

Reply: The Hald Association's offer to negotiate on August 8th still holds and we are at a loss about your concern about this date. Your letter is not clear as to whether or not you plan to attend, but I am presuming that you will.

Re: Your July 19th letter regarding Federal Mediation and Conciliation.

Reply: Your answer to our proposal that we seek mediation is welcomed. May we suggest that in light of the valuable assistance of the New York State Mediation Board, that they be asked to assist us in reaching a settlement.

R+3 6/24/74
JL

Mr. Harry A. Kranepool

-2-

July 25, 1973

Re: Mr. Basedow's letter of July 19th on the alleged
Shannon Grievance.

Reply: I acknowledge your letter as a reply to my July 16th
letter to you.

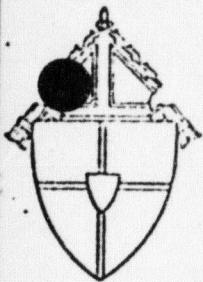
Sincerely yours,

Brother Medard Shea, C.F.X.

Brother Medard Shea, C.F.X.
Assistant Superintendent
Henry M. Hald High School Association

EWS:jd

cc: Mr. Edward Burke
Mr. William Basedow



43

THE CATHOLIC SCHOOLS DIOCESE OF BROOKLYN

345 ADAMS STREET • 212 855-1511
BROOKLYN, NEW YORK 11201

AUG 22 1973
OFFICE OF THE SUPERINTENDENT OF SCHOOLS

August 21, 1973

Mr. Harry A. Kranepool, President
Lay Faculty Association
574 East 23 Street
Brooklyn, New York 11210

Dear Mr. Kranepool:

Since you are out of town at a Convention this week, we did mutually agree to set the date of the meeting to discuss the Bishop Reilly High School grievance on Tuesday, August 28, 1973.

The names and addresses of the lay teachers were mailed to you on August 15. You will note that it was not a simple matter to pull the teachers' names from the computer listing, but we did it as requested.

The September 17, 1973 date for arbitration has been set by the A.A.A. in a letter to us and we plan to comply.

I have reviewed the use of the Hilton Motor Inn for last minute negotiation with our bargaining team and at this time I would specifically note that we will make any agreement or arrangements of this nature at the bargaining table. Simply put, recent developments have cooled any interest I may have indicated in that motel.

Sincerely yours,

Brother Medard Shea, C.F.X.
Brother Medard Shea, C.F.X.
Assistant Superintendent

cc: Rev. Joseph P. Flynn
Mr. Edward Burke

2-4 2-4 7-4
2-4 2-4 0-4

To: Rev. Michael J. Dorsey, Secretary for Education
From: Brother Nedard Shea, C.P.X. *DMS*
Re: Computer listing of Henry M. Hald High School Association
teachers

This memo is in the form of a complaint and an urgent request for some action on the part of the computer company, or whatever, in regard to providing the School Office with a list of the names and addresses, plus salary line, of all of the teachers in the Henry M. Hald High School Association.

The Lay Faculty Association, our teacher union, has a legal right to this list, and since last August, when I first requested this list, we have been unable to provide them with an accurate list of teacher's names, addresses and salaries. The net result is that they filed an unfair labor charge with the National Labor Relations Board against the Henry M. Hald Association. My problem is trying to explain that I cannot provide the list because we have it on a computer. I have a serious credibility problem with the union, and don't know how I can reply at the N.L.R.B. hearing on January 8, 1971.

The only list provided thus far has included every employee in each Henry M. Hald school, lay and religious, professional and non-professional. We have then crossed out the non-teachers on the list, making a very unsatisfactory appearing list which has also been inaccurate.

It would seem to me that the computer concern has had at least three months' notice that this teacher listing is needed. Is there some way you can convince them that we must have such a listing--and as soon as possible.

December 4, 1973

cc: Rev. Joseph P. Flynn



12/24/73
12/25/73
12/26/73

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

HENRY M. HALD HIGH SCHOOL ASSOCIATION, :
Respondent, :
CASE NO.
- and - : 29-CA-3482
LAY FACULTY ASSOCIATION, LOCAL 1261, :
AMERICAN FEDERATION OF TEACHERS, AFL-CIO, :
Charging Party. :
:

EXCEPTIONS OF THE HENRY M. HALD HIGH SCHOOL
ASSOCIATION TO THE DECISION AND RECOMMENDED
ORDER OF THE ADMINISTRATIVE LAW JUDGE

Please take Notice that pursuant to Section 102.46
of the Rules and Regulations of the National Labor Relations Board,
the Respondent, the Henry M. Hald High School Association
("Respondent") respectfully excepts to the Decision and Recommended
Order of the Administrative Law Judge ("ALJ") dated May 16, 1974,
and will submit a Brief in support of the following exceptions:

1. The ALJ erred in finding that Respondent had failed to bargain in good faith since March 29, 1973. (Entire decision). See Respondent's Brief in Support of Exceptions (hereinafter "Brief").

2. The ALJ erred in finding that Respondent failed and refused to confer timely and promptly with the Union on and after March 29* for the purpose of bargaining on the subject of wages (JD* 39, Lines 16 - 18). (See Brief, pp. 12-18).

*All dates 1973 unless otherwise noted; JD refers to the decision of the ALJ. Exhibits are identified thus: General Counsel (GCX); Charging Party (CPX); Respondent (RX).

3. The ALJ erred in finding that Respondent failed and refused to furnish the Union with the names, addresses and salaries of all teachers in the bargaining unit (JD 39, lines 18 - 21). (See Brief, pp. 21-31).

4. The ALJ erred in finding that Respondent has engaged in unfair labor practices within the meaning of Section 8 (a) (1) and (5), and Section 2 (b) and (7) of the National Labor Relations Act ("Act") (JD pp. 34, 39, lines 48 - 52, 21 - 23).

5. The ALJ erred in setting forth his Remedy (JD p. 38) and should have recommended that the complaint be dismissed in that Respondent was not guilty of bargaining in bad faith. (See entire Brief)

6. The ALJ erred in setting forth the proposed order (JD 39) and should have recommended that the complaint be dismissed, in that Respondent was not guilty of bargaining in bad faith (See entire Brief).

7. The ALJ erred in finding that Respondent's activities tend to lead to labor disputes burdening and obstructing commerce (JD 38, lines 7 - 14), since Respondent's activities did not violate the Act. (See entire Brief).

8. The ALJ erred in stating that at the March 29th meeting, Respondent advised the Union it did not have a reaction to the Union's proposals (JD 5, lines 37 - 39). The Transcript (hereinafter Tr.) shows at pages 308, 309, 343, that the Respondent informed the Union it preferred to await the decision of the Supreme Court in the three cases, recently argued, dealing with government aid to religious schools.

9. The ALJ erred in not finding at (JD 7, line 24) that the negotiations in progress dealt only with salary considerations (GCX 2, Article IV, §M) and that the Respondent was only obligated to bargain over salaries.

10. The ALJ erred in stating that after the May 8th meeting, counsel for Respondent said that Respondent would wait for the decision of the Court (JD 7, line 48). The record shows that counsel proposed that, unless the Union had any new proposals, the parties await the decision of the Court.

11. The ALJ erred in failing to find (JD 12, lines 1 - 4) that the Union had adequate readily accessible alternate means to procure the information desired (See Brief, pp. 21-25).

12. The ALJ erred in not finding (JD 12, line 13) that Respondent's letter of July 11th (Mr. Burke to Mr. Basedow, the Union's Counsel) fulfilled whatever duty Respondent had to provide the names and addresses otherwise accessible to the Union. (See Brief, pp. 25-26).

13. The ALJ erred in not finding that Respondent's Memorandum dated December 4th addressed to Reverend Michael J. Dempsey (JD 15, lines 20 - 26) dealing with computer problems was indicia of good faith attempt to provide information requested (Tr. 265 - 267) at least some of which information Respondent was not legally bound to supply (See Exception 11, supra).

14. The ALJ erred in not finding that the information supplied (JD 17, line 4) was the best that Respondent could supply due to the problems Respondent was experiencing with its new computer information program (Tr. 264, 265, 311, 312, Respondent's Exhibit 5).

15. The ALJ erred in finding that "the Union had not received the grids ... they were expecting" (JD 17, lines 17-18). The record shows that the Union was provided in May 8th (Tr. 32-33) with a current consolidated grid (GCX 12) of all the Respondent's schools. This grid had been prepared before the schools had gone on vacation (Tr. 264, 332). The Union's request for a "per school" grid was untimely and unexpected to Respondent and was made during a temporary hiring freeze (Tr. 167-68) at a time when gathering such data was not easily done (Tr. 264).

16. The ALJ erred in not finding (JD 17, lines 17-18, 37-39) that a 1973 - 74 grid was mailed to the Union on July 11th (GCX 19).

17. The ALJ erred in finding that fringe benefits were a subject for bargaining (JD 17, lines 25-27). GCX 2, Article IV, §M clearly stipulates salaries only were subject to re-opener.

18. The ALJ erred in not finding that stipends for clubs and organizations were covered under Article XIX and thus not part of the bargaining over the wage re-opener (GCX 2, Article XIX); that athletic stipends had, by agreement, been excluded from bargaining (Tr. 335). Such finding should have appeared at (JD 32, line 25).

19. The ALJ erred in not finding at (JD 17, lines 31 and 33) that Respondent's refusal to discuss non - monetary

bargaining subjects while awaiting the Supreme Court's decisions was within Respondent's rights since the re-opener clause of the agreement dealt solely with wages and salaries (GCX 2, Article IV, §§ M, N).

20. The ALJ erred in failing to find at (JD 20, lines 20-23) that Respondent never refused to provide the information the Union was seeking, and never made the statement that the Union was "not going to get it" (JD 20 Line 23). The Transcript is devoid of such statement and the weight of the evidence is that the Respondent never refused to provide salary information (Tr. 41-42, 235, 264, 328).

21. The ALJ erred in finding that the Union first requested salaries linked to teachers' names on July 6th (JD 20, lines 39-40); (JD 31, lines 45-50). The weight of testimony credited by the ALJ shows that Witness Gordon stated that August 8th was the date of the initial request for linked salary information (Tr. 214).

22. The ALJ erred in finding that Respondent advised the Union on September 6th (JD 24, lines 11-14) that Respondent would provide no further information. The weight of record testimony is contrary to that finding (Tr. 141-42, 235, 264, 328).

23. The ALJ erred in not crediting the Respondent's reasons for not meeting with the Union when members of Respondent's bargaining teams were out of town (JD 27, lines 49-53). The General Counsel's own Exhibit (Exh. 18) shows that Respondent gave the Union notice of its upcoming vacations and testimony shows that the vacation was neither unexpected nor of an extended nature (Tr. 52).

24. The ALJ erred in failing to find that Respondent never refused to provide information (Tr. 141 - 42, 235, 264, 328), but that Respondent's long-standing practice in responding to requests when first made was that the Respondent would get back to the Union with its answer (Tr. 332). This finding should have appeared at (JD 20, 31, 32, 33, 34, 35, 36, 37, 38 and 39).

25. The ALJ erred in finding that the Court involved was the New York Supreme Court (JD 25, line 34) which is a state trial court. The issue of aid to parochial schools was before the United States Supreme Court, the Court of last resort.

26. The ALJ erred in finding that Respondent was obliged during March through August to bargain in regard to hours of employment (JD 31, line 8). The provisions of the reopeners clause of the agreement expressly limits reopened negotiations to salary items (GCX 2, Article IV, §§ M,N).

27. The ALJ erred in not finding that the Union caused the meetings to be delayed, only two weeks before the expiration date of the reopeners clause, by attending a Union meeting (Tr. 274). This finding should have appeared at (JD 30).

28. The ALJ erred in finding that Respondent's "only" response to the Union's suggested May meeting dates (JD 31, lines 34 - 36) was that it would await the Supreme Court

decisions. The record clearly shows: The Respondent neither refused to meet with the Union nor insisted upon awaiting the Court's decision (Tr. 141 - 42, 241, 269, 273, 320 - 22, 328); The Respondent evinced a willingness to meet any time the Union had additional material or information to put forth (RX 1); the Union noted that it had "nothing more to say" until Respondent put forth a specific salary proposal (RX 1).

29. The ALJ erred in finding that Respondent's delay in meeting to bargain with the Union (JD 32, lines 14 - 19) constituted refusal to bargain collectively in good faith in violation of Section 8 (a) (5) of the Act. (See Brief, pp. 14-16).

30. The ALJ erred in finding that Respondent delayed the bargaining meetings in any manner after June 27th (JD 32, line 16). The record establishes no basis for this conclusion (See, Brief pp. 16-18)..

31. The ALJ erred in not finding that Respondent's conduct in awaiting the decisions of the Supreme Court in the state religious aid cases before formally answering the Union's wage proposals was reasonable in this situation (See accompanying Brief, pp. 14-16). Such finding should have appeared at (JD 32, 34, 35, 37 and 39).

32. The ALJ erred in failing to find that Respondent never refused to provide salary information (JD 33, line 22);

that it told the Union it would get back to it concerning the information (Tr. 332); that upon preparation of a memorandum dealing with the applicable law, Counsel informed Respondent to prepare the information (Tr. 333) and that information was supplied to the Union on September 10 (GCX 23). Such finding should have appeared at (JD 33, line 22).

33. The ALJ erred in failing to find that the Supreme Court's decisions were of immense importance to both parties and that the decision of the Court was necessary to determine whether state monies already set aside for parochial aid would be available. Such finding should have appeared at (JD 25, 32, 34, 35, 37 and 39). (See Brief, pp. 14-16).

34. The ALJ erred in finding "that the Union did not have adequate means ... to obtain the information requested." (JD 32, lines 40 - 41) (See Brief, pp. 21-25).

35. The ALJ erred in finding that it would have been an onerous or impossible task for the Union to obtain the data it needed (JD 32 - 33, lines 45 - 46; 1). (See Brief, 21-25). pp.

36. The ALJ erred in finding that Respondent did not make an effort to notify the Union of any additional problems with its computer or its inability to provide the information (JD 33, lines 28 - 30). The record clearly shows otherwise (Tr. 98, 146 - 47, 216).

37. The ALJ erred in finding that Respondent's inability to furnish the precise information requested by the Union (JD 33, lines 30 - 39) is evidence of bad faith bargaining. (See Brief, pp. 25-31).

38. The ALJ erred in finding that Respondent's conduct from March 3rd to July 6th evidenced a bad faith failure to bargain (JD 34, lines 8 - 23) (See Brief pp. 12-16).

39. The ALJ erred in finding that Respondent's suggestion for deferring negotiations until after the Supreme Court's decision (JD 35, lines 1 - 6) is inconsistent with a claim of good faith bargaining (See Brief, pp. 15-16).

40. The ALJ erred in finding that such a deferral (See Exception 39) was not necessary or reasonable (JD 35, lines 6 - 7) (See Brief, pp. 12-16).

41. The ALJ erred in finding that the deferral of negotiations (JD 35, lines 16 - 28) evidenced a lack of good faith (See Brief, pp. 15-16).

42. The ALJ erred in finding Caroline Farms Div. v. NLRB, 401 F. 2d, 205 (4th Cir. 1968) not applicable (JD 35, lines 30 - 35). The principle of this case is directly on point and is precedent for the argument that Respondent's deferral of bargaining is not evidence of bad faith bargaining. (See Brief, pp. 18).

43. The ALJ erred in not finding that Respondent was willing and did bargain, at all times, over the affect of closing Kearney and McDonnell Schools and the affect upon all teachers there (See NLRB Case 29-CA-3336). Such finding should have appeared at (JD 37, line 5).

44. The ALJ erred in not finding that since Respondent would have no teachers at McDonnell or Kearney Schools as of August 31st (date of re-opener expiration) (Tr. 103) that Respondent properly refused to bargain over such schools in regard to the re-opener provisions. This finding should have appeared at (JD 17, line 41; page 37, line 5).

45. The ALJ erred in not finding that stipends (other wages) (JD 37, line 3) were excluded from bargaining by the parties (athletic stipends) (Tr. 268, 335) and by the terms of the Reopener (other stipends) (GCX 2, Article IV, 4).

46. The ALJ erred in finding that Brother Medard Rea (Respondent) did not make an unequivocal offer to allow the Union to use his records to obtain the information it wanted (JD 37, lines 9 - 15). The record establishes that such an offer was made (Tr. 268 - 69).

47. The ALJ erred in finding that Respondent delayed in providing any information requested by the Union (JD 37, line 27). The ALJ should have found that Respondent always took such requests under consideration (Tr. 332) and tried to provide all information the Union requested (Tr. 332 - 33). Such finding should appear at (JD 37, line 20).

48. The ALJ erred in failing to find that upon receipt of the request for salaries linked to names, Respondent took the request under consideration (Tr. 332 - 33) and did not refuse to provide such information (Tr. 333). Respondent subsequently found that it was required to give the Union that information (Tr. 333) and thereafter within two weeks, provided the Union with the best information it had available (GCX 21). Such finding should have appeared at (JD 33, 34, 36 and 37).

49. The ALJ erred in his application of the case of NLRB v. Reed and Prince Mfg. Co., 205 F. 2d. 131, (1st Cir. 1955) (JD 37, lines 48 - 49). The surrounding circumstances in Respondent's case clearly show no bad faith bargaining (See Brief, p. 18).

50. The ALJ erred in his application of the case of Magma Copper Co., 208 NLRB # 53 (JD, lines 36 - 37) (See Brief, pp. 21-25).

Respectfully submitted,

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JD-313-74
Brooklyn, N. Y.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
WASHINGTON, D. C.

HENRY M. HALD HIGH
SCHOOL ASSOCIATION

and

Case No. 29-CA-3482

LAY FACULTY ASSOCIATION,
LOCAL 1261, AMERICAN
FEDERATION OF TEACHERS, AFL-CIO

Joel H. Friedman, Esq., of
Brooklyn, N. Y., for the
General Counsel.

William Basedow, Esq., of
New York, N. Y., for the
Charging Party.

Edward J. Burke, Esq., of
New York, N. Y., for the
Respondent.

DECISION

Statement of the Case

ELBERT D. GADSDEN, Administrative Law Judge: Upon a charge of unfair labor practices filed on July 23, 1973, and amended on September 17, 1973, by the Lay Faculty Association, Local 1261, American Federation of Teachers, AFL-CIO, the Charging Party, herein called the Union, against Henry M. Hald High School Association, herein called the Respondent, the General Counsel of the National Labor Relations Board issued a complaint against Respondent on October 31, 1973, alleging that Respondent, since March 29, 1973, has refused to bargain in good faith and to furnish appropriate information requested by the Union, in violation of Section 8(a)(1) and Section 2(6) and (7), as well as, Section 8(a)(5) and Section 2(6) and (7) of the National Labor Relations Act, herein called the Act. Respondent filed an Answer denying the alleged unlawful conduct.

5 A hearing in the above matter was held before me at Brooklyn, New York on January 23 and 24, 1974. Briefs have been received from counsel for the General Counsel, counsel for the Charging Party and counsel for the Respondent, which have been carefully considered.

10 Upon the entire record in this case and from my observations of the witnesses, I hereby make the following:

15 **Findings of Fact**

20 **I. Jurisdiction**

25 Respondent is now, and has been at all times material herein, a corporation duly organized under and existing by virtue of the laws of the State of New York, and since June 1, 1972 has been engaged in operating and maintaining member, private nonprofit senior high schools in Brooklyn and Queens, New York, with its office located at 345 Adams Street, Brooklyn, New York. In the course of conducting its school operations at the aforesated locations during the past 12 months, Respondent purchased and caused to be delivered to its several member schools, directly from States of the United States other than New York, schoolbooks, educational equipment and other goods related to its school operations, valued in excess of \$50,000 and derived gross revenues from tuition fees and other sources in excess of \$1,000,000.

30 The complaint alleges, the answer admits by subsequent stipulation, and I find that Respondent is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

35 **II. The Labor Organization Involved**

40 Lay Faculty Association, Local 1261, American Federation of Teachers, AFL-CIO, herein called the Union, is now and has been at all times material herein, a labor organization within the meaning of Section 2(5) of the Act.

45 **III. The Alleged Unfair Labor Practices**

46 **A. Introduction**

47 During the past 2 school years, the Henry M. Hald High School Association, the corporate Respondent herein, has been engaged in the maintenance and operation of a system of private nonprofit senior high schools in Queens and Brooklyn, New York.

The teaching staffs of its several member schools are composed of religious personnel and approximately 550 lay personnel whom are represented by the Union. The collective-bargaining contract between the Respondent and the Union, under which the current dispute arose, 5 became effective December 12, 1972, with a provision for a wage reopener in 1973. Pursuant to a provision of the contract, the Union contacted Respondent by letter dated January 8, 1973, 1/ in which it requested a meeting to commence negotiations for a new collective-bargaining agreement, in view of the fact that its current 10 contract would expire on August 31, and pursuant to other terms of the contract, such negotiation should commence within 180 days prior to expiration of their current contract.

15 Since the Union represented lay teachers in all member schools of Respondent, including Bishop McDonnell and Bishop Kearney High Schools, which were going to be terminated and was in fact closed, by Respondent on August 31, the Union made numerous requests of Respondent to bargain as well as several requests of Respondent to furnish certain information about its lay teachers for the 1973- 20 1974 school year. Although Respondent met with the Union and furnished it with information it requested on numerous occasions during the period March through September, the Union alleges that from March 29 to the present time, the Respondent has bargained in bad faith, has refused to meet with the Union timely and promptly, unreasonably 25 delaying the negotiations; and that it has refused to provide the Union with certain information requested by it on behalf of all the lay teachers in its unit, in violation of the Act. The Respondent denies the allegations as set forth by the Union.

30 Brother Medard Shea is an agent, acting on behalf of Respondent and therefore is a supervisor within the meaning of Section 2(11) of the Act. All full-time lay teachers employed in a nonsupervisory capacity in member schools of the Hald Association (Respondent), constitute a unit appropriate for purposes of collective 35 bargaining within the meaning of Section 9(b) of the Act. 2/

Issues

40 The principal questions raised by the pleadings are, whether the Respondent between March 29 and the present date, did in fact bargain in bad faith by refusing to meet with the Union promptly and whether Respondent refused to provide certain information requested

45 1/ Hereafter all dates will refer to the year 1973 unless specified otherwise.
2/ The facts set forth above are undisputed in the record.

by the Union, with respect to salary matters affecting all lay teachers in its bargaining unit, in violation of Section 8(a)(5) and Section 2(6) and (7); as well as Sections 8(a)(1) and 2(6) and (7) of the Act.

5

B. Respondent's Bargaining in Bad Faith

Respondent's Refusal to Furnish
Essential Information

10

Harry Kranepool credibly testified that he is and has been a member of Local 1261, the Union for several years, having served as delegate and past president. Since December 1, 1972 he has served as vice-president and that the Union's current contract with the Union Association (Respondent) has been in effect since December 12, 1972, effective September 1, 1972, with a provision for a wage reopeners in 1973; that pursuant to this provision, he contacted Respondent by letter (G. C. Exhibit 3) dated January 8, 1973, in which he notified Respondent that the Union's contract would terminate August 31, 1973 and requested a meeting at Respondent's convenience to commence negotiations for a new collective-bargaining agreement to establish wages for more than 550 of its lay teachers whom the Union represents. According to the terms of the contract, negotiations were to commence within 180 days of the expiration of the contract.

25

In a letter (G. C. Exhibit 4) dated January 18, 1973, Mr. Kranepool said he called Brother Medard Shea (Respondent) ^{3/} in an effort to arrange a negotiation meeting for March 15, 1973 (the first of the 180 days prior to expiration of the contract) and Brother Medard tentatively agreed with the understanding that Mr. Kranepool would call at a later time to confirm said date. On or about March 13, Mr. Kranepool called Respondent (Brother Medard) to confirm the March 15 date, during which conversation Brother Medard advised him that due to a prior commitment he would not be able to meet with him on March 15 and they mutually agreed to meet March 20 for a preliminary session. At the meeting on March 20, the bargaining teams were introduced to each other and a few ground rules were established. They thereupon agreed to have a formal meeting March 29, at which time Respondent was to give its reaction to the Union's proposal (G. C. Exhibits 5A and B) submitted to it on March 25, which read as follows:

45 ^{3/} By stipulation of the parties, Brother Medard Shea is an agent of Respondent and a supervisor within the meaning of Section 2(11) of the Act.

* * * * *

5 1. A cost of living salary increase of 16.4% applicable to each step in each column of the salary scale. Teachers who are beyond the steps in any column shall have their salaries raised to that of the last step in their column and, under no circumstances shall the salary of any teacher be lowered.

10 2. Stipend for Chairman ----- \$800
 Stipend for Asst. Chairman ---- \$600
 Stipend for Asst. Chairman ---- \$400

15 3. Permanent Certification = Master's Degree for all vertical lanes, including M.A. + 30.

20 4. Dates for presentation of courses for salary credit shall be changed from September 1st and January 1st to October 1st and February 1st.

25 5. Salary protection via unemployment insurance for all teachers.

25 6. Salary protection via income insurance applicable during hospitalization.

30 7. Voluntary deduction from salary for auto and home/apartment insurance.

* * * * *

35 The Union and Respondent met at St. Francis College on March 29 with the following persons in attendance: Brother Medard, Counselor Burke and Mr. Crossman, business manager for Respondent, along with Counselor Fleischman, vice-president Gordon, Mary Ann Tobon, secretary, Daniel McCaffrey, treasurer, Stephen Monroe, bargaining delegate for the Union, and a state representative, Tony Ficchio. At that time the Respondent advised the Union that it did not have a reaction to the Union's proposals. Nevertheless, the Union asked for a grid 4/ or a costing arrangement for teachers in their unit for the current year 1973-1974. They did receive such a grid for previous years from Respondent. Counsel for Respondent advised the Union to wait, and that Respondent would get back to it with reference to the requested information.

45 4/ A grid is a chart consisting of lanes and steps, years in service and the increment levels showing academic achievements etc., of all teachers.

At the meeting on March 29 the Union suggested and it was tentatively agreed by the parties to meet again on April 10. In a letter (G. C. Exhibit 6) dated April 3, to Brother Medard, the Union (Mr. Kranepool) made a formal request for a meeting on April 10 for the purpose of receiving the grid information previously requested. In a letter (G. C. Exhibit 7) dated Monday, April 9, Respondent (Brother Medard) advised the Union that its letter had just come to his attention on that date because he was not in the office on April 6; and that the short notice allowed insufficient time to get their bargaining team together; and that however, Respondent was interested in another meeting without undue delay and suggested that the Union suggest some alternative dates for such meeting. The Union wrote a letter taking exception to Respondent's stated inability to attend the meeting tentatively scheduled for April 10 by its letter of April 9 and by telegrams (G. C. Exhibits 9 and 10) dated April 12 as follows:

* * * * *

20 BROOKLYN NY 11201
THIS IS TO INFORM YOU THAT THE LAY FACULTY ASSOCIATION
IS AND HAS FOR SOME TIME BEEN READY TO NEGOTIATE WITH
YOU AT ANY TIME AND IN ANY PLACE. WE'LL WAIT AND EXPECT
YOUR ASSIGNEMENT OF A DATE AND PLACE BY RETURN MAIL
25 HARRY A KRANEPOOLPRESIDENT LAY FACULTY ASSOCIATION

* * * * *

30 THIS IS TO INFORM YOU THAT THE LAY FACULTY ASSOCIATION
IS AND HAS FOR SOME TIME BEEN READY TO NEGOTIATE WITH
YOU AT ANY TIME AND IN ANY PLACE. WE'LL WAIT AND EXPECT
YOUR ASSIGNEMENT OF A DATE AND PLACE BY RETURN MAIL
HARRY A KRANEPOOLPRESIDENT LAY FACULTY ASSOCIATION

35 * * * * *

A letter dated April 16 from Respondent to the Union read as follows:

40 Attention: Harry A. Kranepool, President

Dear Mr. Kranepool:

45 Notwithstanding our suggestion that we await the outcome of the Supreme Court decisions concerning Government aid to our schools, which aid has been

challenged by A.F.T. leaders and affiliated organizations, it appears that Local 1261 wishes to meet for negotiations concerning the new salary schedule to go into effect on September 1, 1973.

5

In light of your telegram, received on April 13, we have arranged a meeting for Thursday, May 3, at St. Francis College, Room 100R, at 3:30 PM.

10

Please confirm at your earliest convenience.

Sincerely yours,

15

Brother Medard Shea, C.F.X.
Assistant Superintendent

20 Mr. Kranepool testified that during their meeting with Respondent in March, the Union had been advised by counsel for Respondent that Respondent wanted to delay negotiations with the Union until the Court ruled on the aid to their particular school system. The Union saw no need to delay negotiations since their proposals were dealing with considerations other than salaries.

25

At this juncture in the proceeding it was noted that letters from Respondent (G. C. Exhibits 4, 7 and 11) were typed on letterhead stationary of the Catholic School Diocese of Brooklyn, office of the Superintendent of Schools, at 345 Street, instead of assistant superintendent, Henry M. Ha High School Association; and that Brother Medard was the same person with whom the Union had previously negotiated contracts for the Union and the Catholic Diocese of Brooklyn. The Union sent a letter (G. C. Exhibit 13) confirming the date of May 3 for the next meeting.

35

40 The Union then met with Respondent on May 3. This was a brief meeting during which counsel for Respondent indicated that an affiliate of the Union had opposed state aid to church related schools and the Union said they had nothing to do with that position or any of its affiliates. The Union requested the grid information and was presented a copy of a 1972 grid (G. C. Exhibit 12). Mr. Kranepool said he had seen this same grid the year before and the numbers (figures) were the same. The Union advised Respondent that the grid presented was for the year 1972-1973 and they had requested the grid for 1973-1974. Mr. Burke (Respondent) said he would get back to the Union. The Union suggested that the next meeting be held on May 8, 11 or 15, but there was no definite response to this suggestion. Mr. Burke said Respondent would wait for the decision of the Court and get back to the Union at that time.

In a letter dated May 8, the Union advised Respondent as follows:

* * * * *

5

The Lay Faculty Association, once again, awaits your response concerning our proposal that a meeting be held either May 8, 1973, May 11, 1973, or May 15, 1973. As today is May 8, 1973 we assume that we will not be meeting today.

10

Please do us the courtesy of responding. We wish to make it very clear to you that we have no intention of waiting for the Diocese to feel like bargaining and that this constant refusal to bargain will cause us to take appropriate action to protect the rights of our members.

15

We await your reply.

20

* * * * *

25

Mr. Kranepool said he personally did not receive, on behalf of the Union, any response to either of its communicated requests between May 8 and June 15, but Respondent's Exhibit 1, shows the Union did receive one reply.

30

In a letter (Respondent's Exhibit 1) from counsel for Respondent dated May 10, the Union was advised as follows:

* * * * *

35

Your correspondence addressed to Father Fitzpatrick, concerning contract negotiations between the Henry M. Hald High School Association and Local 1261, has been referred to me for a reply. So that we may proceed in an orderly fashion, I would again request that correspondence concerning the Henry M. Hald High School Association and Local 1261 matters be addressed either to Brother Medard Shea, C.F.X., or myself.

40

You will recall that at our last bargaining session, we pointed out the limited scope of these negotiations and the fact that any new salary provision would not be effective until September 1, 1973. Based on these facts and the present uncertainties as to

governmental aid, which, as you know, has been challenged in the courts by leaders of your parent organization, and student enrollment for the 1973 - 74 school year, it would seem desirable to both sides that we defer specific commitments concerning salary for a month or so when a more definite understanding of the Association's income for 1973 - 74 will be available to us. At our last meeting on May 3, we indicated to you that we were prepared to continue the negotiations at that time or at any other time that you felt that you had additional material or information to present to us. Your Local 1261 representative stated at that time that they had nothing more to say until such time as the Association put forth a specific salary proposal. If this is still the position of Local 1261, I would again suggest that we await the information on income through governmental aid and tuitions so that we will have a firm basis for any proposals the Association would make.

Again, if Local 1261 does have additional information in connection with the negotiations that, in your judgment would make a meeting desirable at this time, the Association's representatives would be happy to meet with you.

I shall await your response.

30 * * * *

In a letter dated May 21, the Union advised Respondent as follows:

35 * * * *

The Lay Faculty Association, Local 1261, again repeats its offer to meet with the Hald Association and its Diocesan Counsel at a good faith and mutual bargaining session at any time and at any place. The Hald Association has had our meager proposals since March 15 and we have have not as yet received a response that is relevant to our proposals.

45 We await your response.

* * * * *

And again, in a letter dated June 15, the Union wrote to Respondent as follows:

5

Dear Brother Medard:

10

Once again, the Lay Faculty Association requests that you set a date, time, and place for a meeting in order that we might begin negotiations. We note that you have refused to negotiate with us for over two months, though we have made repeated requests.

15

Hoping to hear from you shortly, I remain

*

*

*

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20

After consulting its attorney, Mr. Kranepool said the Union filed refusal to bargain charges with the National Labor Relations Board on June 25.

35

Respondent submitted a letter dated June 27, addressed to the Union, which advised as follows:

25

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*

30

In your letter of June 15, 1973, you request that we set a date, time and place for a meeting to continue negotiations. In our telephone call this morning you noted some dismay that I would be unable to be present at the July 6th meeting which had been arranged by our mutual attorneys, Mr. Burke and Mr. Basedow. Thus, we mutually agreed to try to arrange a meeting on Tuesday, July 10th, at 10:00 AM, at St. Francis College.

35

This meeting is based upon our both following up that our attorneys that they will be able to attend.

40

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Prior to June 27, Mr. Kranepool (the Union) said he received notice from his counsel that the Supreme Court decided that there would be no governmental aid to religious (Respondent) schools. At this proceeding, counsel for Respondent agreed to stipulate the authenticity of this fact. On June 27, the Union (Mr. Kranepool) drafted the following letter (G. C. Exhibit 17) in response to Respondent's letter of even date, which it mailed on June 29:

* * * * *

Dear Brother Medard:

5 I am in receipt of your letter dated
June 27, 1973. After conferring with our counsel, it
is our understanding that both counsel have established
10 July 6th as a meeting date at Saint Francis College at
10:00 A.M. for the purpose of collective bargaining. I
understand that your counsel, Mr. Burke, will be
15 present as well as other Diocesan representatives
excluding yourself. I together with our counsel and
our representatives will be present at this meeting. We
are aware that you will be unable to be present due to a
prior commitment in Albany. However this meeting has
already been established.

20 We are hopeful that this meeting on July 6th
will be a productive collective bargaining session.

* * * * *

25 Respondent and the Union met on July 6 and both negotiating
teams were present except Brother Medard for Respondent. During this
meeting counsel for the Union requested Respondent to furnish it with
the names and addresses of teachers in the subject unit and to indicate
if they are a department chairman or a stipend member of any club or
other organization. Counsel for Respondent said the Union did not need
such information and it was setting the stage for another NLRB case.
30 Counsel (Mr. Burke) nevertheless did say he would be getting back to
counsel for the Union with regard to the requested information. Also
during this meeting, Mr. Kranepool said he again requested the grid
for 1973-1974 school year which should have shown the new teachers
hired. The parties agreed and did in fact meet again on July 13 at
35 which meeting Brother Medard was present. The Union renewed its
request for the grid including salary information and was told by
Respondent's counsel that he would get back to the Union as soon as
possible. However, Mr. Burke, counsel for Respondent, said securing
the names etc. of the teachers was the Union's job and not his.
40 Mr. Kranepool said the Union had no way of contacting the teachers
whose names and addresses were requested because they were on summer
vacation and the keys to their mail boxes were turned in to the school
administrator in charge.

5 The only teachers whose names and addresses the Union had were those of its members, totaling about 420 out of about 550. Some teachers' checks are mailed to them by Respondent during the summer months. The Union suggested that the next meeting be held on August 8 since Respondent said it could not meet at an earlier date because it wanted to allow its officials to go on vacation. The Union objected to the vacation because in previous years the parties mutually agreed on a time for vacation. However, union officials or representatives were also unavailable for about 1 week 10 in August to allow its officials to attend a conference.

15 In a letter (G. C. Exhibit 19) dated July 11, counsel for the Union received the following communication, with enclosures, from counsel for Respondent:

15

* * * * *

20 Dear Mr. Basedow:

20

Pursuant to the request made by the Lay Faculty Association at our bargaining session on July 6th, I am enclosing the following material for your information:

25

1. Projected consolidated lay faculty schedule for the 1973 - 1974 school year

30

2. A projected student population breakdown for the 1973 - 1974 school year

30

3. A synopsis of the grant-in-aid program for the 1972 - 1973 and 1973 - 1974 school years

35

I have not been able to obtain a statement of projected income and expenses for the 1973 - 1974 school year at this time; but as soon as such a statement is available, I will forward it to your office. I trust that this information will be of assistance to the Lay Faculty Association in resolving the current round of negotiations in a speedy and satisfactory manner.

40

45 Sincerely,

CLIFTON BUDD & BURKE

* * * * *

In a letter (G. C. Exhibit 18) dated July 16, the Union advised Respondent as follows:

5

Dear Brother Medard:

10 This is to inform you that the Lay Faculty Association rejects your suggestion to postpone our negotiations until August 8, 1973. This date is too late in view of the fact that our Contract salary provisions expire on August 31, 1973 and school re-opens less than a week later. The Lay Faculty Association intends to advise its membership not to return to work in the Fall until the new salary provisions are agreed upon.

15 Further, the Lay Faculty Association does not understand your unilateral decision to "go on vacation" less than a month before Contract expiration in that such "vacations" have, in the past, been agreed upon mutually.

20 25 We are unable to accept this action on your part as anything other than continued refusal to bargain. Hoping to hear from you shortly, I remain

30

The enclosures constituted a grid on teachers' academic qualifications, anticipated student population, and data on grant-in-aid to each school. There was no data on teachers' salaries.

35 40 45 Mr. Kranepool (the Union) testified that the information contained in General Counsel's Exhibit 19 was not what the Union requested because it was not a breakdown school-by-school, and the total number of teachers did not coincide with the Union's total. The Union could not determine from the data submitted, where the teachers were in each member school unit. Moreover, he said, the Union did not request data on student population. Bishop Kearney, as well as several other high schools, were not listed therein. Some of the schools in its unit not listed were to be phased out August 31. Likewise, there were teachers at Bishop Kearney prior to August 31 who were in the unit but Kearney school is now closed. He also said the Union did not request grant-in-aid information.

In a letter dated July 25 from Respondent (R. Exhibit 3), the Union was advised as follows:

5

Dear Mr. Kranepool:

10

My apologies for seeming to "banter" (your letter of July 17th) with you. In reality, I am most serious in my reply and the temptation to far more than "banter" is very strong in the face of a veritable cascade of letters and complaints, grievances, subpoenas, telegrams and press releases. I am replying to three pieces of correspondence, two from you, and one from Mr. William Basedow. Of necessity, I must use this summary technique in replying.

15

Re: Your July 16th letter regarding negotiation dates.

20

Reply: The Hald Association's offer to negotiate on August 8th still holds and we are at a loss about your concern about this date. Your letter is not clear as to whether or not you plan to attend, but I am presuming that you will.

30

Re: Your July 19th letter regarding Federal Mediation and Conciliation.

35

Reply: Your answer to our proposal that we seek mediation is welcomed. May we suggest that in light of the valuable assistance of the New York State Mediation Board, that they be asked to assist us in reaching a settlement.

40

Re: Mr. Basedow's letter of July 19th on the alleged Shannon Grievance.

45

Reply: I acknowledge your letter as a reply to my July 16th letter to you.

* * * * *

In a letter dated July 26 from Respondent (G. C. Exhibit 20), the Union was advised as follows:

5

Dear Mr. Kranepool:

10

Father Joseph P. Bynon, Superintendent of Schools, has referred your request for an appointment (letter of July 16th) to my attention as the responsible party in the Schools Office for Union matters.

15

Please be assured that I will meet with you at any mutually convenient time to discuss whatever matters you wish of interest to the Diocese of Brooklyn or the Lay Faculty Association.

20

Counsel for Respondent introduced a memorandum dated 12/4/73, addressed to Reverend Michael J. Dempsey, Secretary for Education for Respondent complaining and requesting the names, addresses and salary lines of all Respondent teachers to submit to the Union, which has filed a charge against Respondent for failure to submit the same; and that he (counsel for Respondent) has had a problem because the information requested is on a computer.

30

Mr. Kranepool further testified that the Union thereafter requested a meeting with the Federal Mediation Service which was granted and held on August 8. At that time the Union repeated its request for teachers names and addresses, and it also requested data on their salaries and the identity of those with stipends. The Union was advised by Respondent that the information was coming. Upon his return from a convention on August 22, Mr. Kranepool said he found data (G. C. Exhibit 21) at his home. However upon examination of the same, he discovered that it was not the proper information he requested (not a complete listing of all of the schools), the names of two schools, Bishop McDonnell and Bishop Kearney were omitted; that there was no designation as to what the teachers' salaries were and some of the teachers listed were no longer employed by Respondent. The list also did not contain the names of some teachers who were hired for the 1973-1974 school year.

In a letter dated August 21, (R. Exhibit 4), Respondent advised the Union as follows:

* * * *

5

Since you are out of town at a Convention this week, we did mutually agree to set the date of the meeting to discuss the Bishop Reilly High School grievance on Tuesday, August 28, 1973.

10

The names and addresses of the lay teachers were mailed to you on August 15. You will note that it was not a simple matter to pull the teachers' names from the computer listing, but we did it as requested.

15

The September 17, 1973 date for arbitration has been set by the A.A.A. in a letter to us and we plan to comply.

20

I have reviewed the use of the Hilton Motor Inn for last minute negotiation with our bargaining team and at this time I would specifically note that we will make any agreement or arrangements of this nature at the bargaining table. Simply put, recent developments have cooled any interest I may have indicated in that motel.

25

* * * *

30

Not having received the names, addresses and salaries of the teachers as repeatedly requested, the Union, Mr. Kranepool said he wrote the following letter (G. C. Exhibit 22) dated August 27, to the Respondent:

35

* * * *

Dear Brother Medard:

40

Once again, the Lay Faculty Association requests that it be provided with the salary and other wages of the teachers in our bargaining unit. This information is necessary in order that we might properly represent our teachers and the union is, quite clearly, entitled to such information.

45

Your delay in this matter is difficult to understand inasmuch as all of this information is easily available to you through your computer system. We will wait an additional short period for the information.

50

* * * *

Mr. Kranepool (Union) testified that he received a second incomplete list (G. C. Exhibit 23) from Respondent on or about September 10 or 11. Not only was the list incomplete but it contained erroneous information and did not contain the names of the new teachers, their salaries nor the information on fringe benefits or stipends. Bishop McDonnell and Bishop Kearney schools were omitted and the list contained the names of teachers who were not employees after August 31, when the school year ended. These matters were discussed during the several bargaining sessions in late August.

The Union went on strike from September 17 to October 14 when a settlement was agreed upon. Thereafter, the Respondent submitted another listing (G. C. Exhibit 24) to the Union which included the names of the new teachers but it did not show the fringe benefits or stipends nor increases in salaries, and the names of the same two schools were again omitted. The names and data on these two schools were requested by the Union in bargaining sessions in May and July. As of the date of this proceeding, the Union had not received the grids (or the specific information) they were requesting.

On cross-examination Mr. Kranepool, of the Union, testified that during the bargaining sessions of the past 4 or 5 years the Union did not request the names, addresses and salaries of the teachers. He acquiesced in the statement of counsel for the Respondent that Respondent and the Union had engaged in about 16 bargaining sessions in 1973, involving, admittedly, many hours; and that only one of the 38 articles of the contract was a subject for bargaining (salaries and fringe benefits) in 1973; that both parties by agreement negotiated on subjects not covered by the contract; that although Respondent made it clear that it preferred deferring negotiations or bargaining on money matters until the Supreme Court ruled on financial aid to private and parochial schools, the Union was asking Respondent to bargain on some nonmonetary matters as well, but Respondent said it did not want to discuss it. Mr. Kranepool admitted that Respondent had advised the Union that the school principals were away and there was (during summer months) nobody else to get the requested information, but that Respondent would submit the same as soon as possible. The Union received the first one page grid from Respondent at the end of July or the first part of August. When the Union requested the names, addresses, and salaries of teachers employed at Bishop McDonnell and Bishop Kearney for the 1973-1974 school year, they were advised that those schools were not a part of Respondent, the Hald Association; that Respondent was not bargaining for them; and that there were no employees at these two schools in September because they were terminated in March and April, effective August 31.

Counsel for Respondent interrogated Mr. Kranepool extensively on the feasibility and efforts the Union had made or could have made to obtain on its own, the information requested of Respondent. On cross-examination Mr. Kranepool testified as follows:

5

Just one last area. Again to recap, you wanted all the information for '73 - '74?

10

A. We requested the information for '73 - '74.

15

Q. How would that help a teacher employed at Kearney in '72 - '73 -- let's say McDonnell to avoid the question of Kearney -- an employee at Bishop McDonnell High School in '72 - '73, terminated on August 31st, '73, how would information about an employee who was no longer employed next year help you this year?

A. Some of those employees are employed this year in our schools system.

20

Q. But not at Bishop McDonnell?

A. Some of the teachers were, are employed right now in our schools other than McDonnell and there are provisions under our contract right now which stipulate the proceedings that they have to go through for termination, and also whether or not they're a new teacher, what category they fall under.

25

That would be very important to us to make sure that they are on the same step and lane, as well as their other contractual obligations are fulfilled by the Hald Association.

30

Q. I'm sure the concern is there. But I'm still mystified as to how a list of names of people who are not employed somewhere at some future date will assist you in negotiating for them even though they're not employees of the bargaining unit and not necessarily represented by your union?

35

MR. FRIEDMAN: Your Honor, I might object to the question on the grounds that I myself am not quite sure exactly what the question is.

Q. You did not -- all right I'll start again.
You did not ask for the names of the people
employed last year? You wanted the '73 - '74
list?

5 A. Yes.

Q. Not '72 - '73?

A. Right.

10 Q. You did not ask for the people employed last
year?

A. Back up. We asked for this information earlier
in the year when the schools were still opened.

15 JUDGE GADSDEN: That was an oral request?
THE WITNESS: It was an oral request, at a bargaining
session we asked for the information.

20 Q. For '73 - '74, right, that's what your testimony
is, anyhow --

* * * * *

25 Still conceding your contention, you asked for
data, names, addresses and salary of employees
employed in the member school of Hald Association
effective September 1, 1973 for '73 - '74 school
year?

30 A. Yes, to answer that question.

Q. Now, will you agree that there are no teachers
employed by the Hald Association in the physical
plant that used to be Bishop McDonnell High School?

35 A. Yes.

JUDGE GADSDEN: As of September 1?

MR. BURKE: '73, right.

40 JUDGE GADSDEN: Right.

Q. (By Mr. Burke) Is it true to say then that the
Hald Association did not have any employees for
the '73 - '74 school year, effective
September 1, '73, at Bishop McDonnell?

45 A. Yes, it is true.

Q. If that's true, is it accurate to say that you did
not have any lay faculty members whom you
represented for the 1973 - '74 school year effective
September 1st at Bishop McDonnell?

50 A. Yes.

Q. Is it true then that you weren't negotiating for anybody at McDonnell?

A. McDonnell was not in existance.

5 Q. If our position concerning Kearney is correct, and I'm not asking you to concede that, would you say that the same facts are controlling and you would have -- that I would reach the same conclusion?

10 A. Yes.

MR. BURKE: I don't have any other questions.

15 Mr. Kranepool identified and acknowledged the receipt of a consolidated grid sheet (G. C. Exhibit 25) from Respondent in May or June 1972 for the 1972-1973 school year. The grid was properly prepared in accordance with the specifications of the Union's request, except that it was for the previous school year and not for the school year 1973-1974 as requested. He further testified that the 20 Union was never told by Respondent that such a grid as Exhibit 25 could not be provided by the year 1973-1974, but rather, the Union was told that it did not have a right to such information, or the Union was not going to get it, or that Respondent was going to work on it or that Respondent saw no need for it. The Union was 25 never told by Respondent that the requested information would not be given to it or that it was outside the contract or the negotiations. However, Respondent did advise the Union that it had a computer problem. The Union did not ask what was the nature or gravity of the problem. Mr. Kranepool said the Union needed the 30 information requested because matters involving the renewal of employment and granting of tenure notices are required to be given by a certain date, as provided in the contract, and it is particularly important because some of the teachers on the list were not granted tenure for the 1973-1974 year.

35 Robert Gordon credibly testified that he was vice-president of Local 1261 until December 1, when he became president and chief-negotiator for the Union; that he was present at the bargaining meeting with Respondent on July 6 when he requested a current list of names, addresses and salaries of all teachers in the unit; and that 40 Mr. Burke, counsel for Respondent said:

45 A. Mr. Burke responded that the employer had no obligation to provide such information, that he was not about to do the union's work, that he saw no reason that such request had been made, at which point Mr. Basedow stated that -- Mr. Basedow quoted some laws to him.

5

I remember the Taft-Hartley Act and a number of other things were mentioned -- that we had a right and an obligation to represent all of the people in our bargaining unit and that we could not do that because we didn't have all of their names and addresses and that the employer had an obligation to provide this information to us.

He wanted the information, he told him.

10

Q. What was Mr. Burke's response?

A. He again responded that he had no obligation to provide it, that this was an improper request on the part of the union, but that he would see what he could do.

15

When the bargaining teams met again on July 13, he requested a current list as of 1973, of all teachers who were working in member schools and the names of all teachers who had been hired for the next school year. Mr. Gordon said:

20

A. I believe Mr. Burke referred to the previous request and repeated again that he had no obligation to provide such information, that such request was an improper request, that this was something the union ought to do, that this was something that the employer wasn't supposed to do it for the union, but that again, he would see what he could do.

30

The bargaining team met again on August 8 when Mr. Gordon renewed his request for the same information, and in addition thereto, requested other wages in addition to salary (stipends for coaching, chairman of a department, etc.) Again, Mr. Burke responded that there was no obligation to provide such information but he would make an effort to obtain it as soon as possible. Mr. Gordon's testimony corroborated Mr. Kranepool's account of the Union requests for information and Respondent's responses thereto. When the teams met at the mediation service, Mr. Gordon said:

35

40

A. I told Mr. Burke that the information that we had received was insufficient, that it did not meet our request or our needs nor did it meet his obligation to provide this information to us.

45

I pointed out to him two schools were missing. I told him that there was no salary information there. I told him that we still had not received

5

any information about teachers who had been hired to work only a week later. And I know that teachers are hired as early as possible in order to have the full complement of faculty prepared for the fall before the opening of school.

10

Q. In fact, taking that up for a minute, when are -- well, first of all, is there some sort of system by which termination notices or something are sent to people, that is, for people who are not going to be rehired?

A. Yes.

15

Our contract provides that March 1st is the date on which teachers who are in their third year are informed whether or not they will be receiving tenure.

20

Our way of doing things has been that teachers who do not receive tenure, are not renewed, so a number of teachers would know on March 1st whether or not they were being renewed.

In addition to that, by April 15th, all teachers would know. So any teachers who were being terminated would have known by April 15th.

25

Q. By the way, are you a department head?

A. No, I'm not.

Q. Oh.

30

Do you have any knowledge from your own experience when they start, let's say, interviewing new people?

Have you witnessed people being interviewed at the school?

35

A. People are interviewed as soon as it is known that a place will be open. That would be at the latest, March or April. It isn't always possible to hire people at that point, I know, but some are hired at that time and certainly the interviewing begins at that point in time.

40

Q. Now, with regard to your statement at that meeting on the 29th of August --

A. Yes.

45

Q. (Continuing) -- what was the response to the Hald Association?

5 A. That some of the information had been provided, that they were doing the best they could, that they had no obligation to provide this information and basically were doing us a favor anyway and couldn't understand why it was that we were being so demanding inasmuch as this was a favor.

10 I again pointed out why we needed the information, that we couldn't properly represent these people, that we didn't know who was in the unit, that we were coming to the end of a contract.

15 It was known at that time that we were not near a settlement. We felt that it was essential to consult all the people we represented and to inform them of what was going on.

15 Q. Now, with regard to McDonnell and Kearney, was anything said?

A. Yes.

20 Q. Tell us about that.

20 A. Well, Mr. Burke pointed out to us that -- that in his view neither Bishop McDonnell and Bishop Kearney concerned us and that, therefore, he didn't see why that information should be provided.

25 Q. And what was your response to that?

30 A. I told him that as of August 29th, there is no dispute concerning Bishop Kearney and Bishop McDonnell.

30 I told him that all those people present on both sides agreed that on August 29th those two schools are member schools of the Hald Association.

35 I said that I had asked for a current list as early as July when very clearly they were members of the association and that I wanted the information.

40 I pointed out to him that in addition to the matter of consulting and informing him of what was transpiring, I knew that some of the McDonnell teachers, because Brother Medard had told me so, would be hired in some of the other schools, and I felt that might be another way of contacting them by using the old McDonnell list.

45 I knew also that some of the articles perdure in their rights, at least. For example, teachers have money put into the annuity. Teachers have rights concerning transfer to other schools.

Q. Did you say this to Mr. Burke?

A. Yes, I did. I told him all this time that those are the reasons that I absolutely need this information.

5

Q. Okay.

And what was his response?

A. That if we needed it, we could obtain it ourselves. He would try to get it if he could.

10

Mr. Gordon further testified that the bargaining teams met again on September 6 when the Union renewed its request for the information regarding teachers in its unit and Mr. Burke advised it that Respondent had "provided some information and that's all he intended to provide."

15

About a week later, Respondent sent the information contained in General Counsel's Exhibit 23. The list did not contain data for Bishop McDonnell and Bishop Kearney High Schools, and no stipends appeared on the list and the data was for the 1972-1973 school year. The list also contained the names of persons who were no longer employed

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by Respondent. The teams met again on September 7 at which time he (Mr. Gordon) informed Mr. Burke that the latter had still not provided the information requested, and he again, specified the information omitted. Mr. Burke said there was no obligation to provide such

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information but he would do what he could. The Union meeting was also held on September 17, at which time its membership voted to strike, commencing on the next day. The strike lasted 1 week and the teams

30

met again on September 22. When the Union reminded Respondent that it still had not received the information requested, Mr. Burke again said he had no obligation to provide it but he was making some effort to secure it. Mr. Gordon had received his check for the first week

and a half of the school year 1973-1974, and it was printed (with his name and address on it) by Respondent's computer.

35

At the strike settlement meeting on October 14, the Union asked for the requested information and Mr. Burke said he would get back to them. The Union received a list (G. C. Exhibit 24) during the week of October 15. However, this list did not contain the specific information heretofore requested. The specific information requested on other wages could mean as much as \$2,000 or more a year to a teacher.

40

Respondent has since failed to furnish any of the specific information requested by the Union. The Union did not request the specific information before the schools closed because it did not know until early July that Respondent was obligated to furnish it and it did not believe Respondent would have furnished it voluntarily. The data furnished in Exhibit 19 was only an estimate. The Respondent would

45

know the names of members of the Union by the check-off provisions. 5/

50

5/ I credit the testimony of Mr. Gordon because he appeared to be sure and truthful as he testified and because his testimony (except his recollection that Respondent said it would (Continued)

5 Brother Medard Shea, credibly testified that he is
assistant superintendent for Teacher Personnel and has been in
three rounds of negotiations with the Union for Respondent on two
contracts and an attempted third contract; that Respondent furnished
the Union grids for the individual schools for the school year
1972-1973, at the Union's request; that the Union did not request a
school-by-school grid for the 1972-1973 school year; that Respondent
never refused to furnish the Union with the names, addresses and
10 salaries of its teachers but he attempted to obtain that information
from the accounting department (Mrs. Patricia Essex); that she
eventually received some information but not what he had requested;
that the Respondent implemented the computer system in July, about
the time the Union requested the information but the system was
not highly successful; and that Respondent's Exhibit 5 is submitted
15 to show that there was an internal problem of getting the information
requested by Respondent.

20 Brother Medard further testified that by the terms of the
agreement, coaches were excluded from the bargaining under the terms
of the agreement by mutual consent of the parties; that there were
no demands for extracurricular payments or changes which in his
judgment would have been barred from negotiations; that on August 28
he invited the Union to his office to obtain information on the
25 names, addresses and salaries of the teachers but the Union did not
come or ask to come; that he did not, nor did he hear, any
representative of Respondent advise the Union that Respondent would
not give the requested information; that although teachers are paid
during the summer by mail, the envelopes for mailing these checks
are addressed in June by the school in which the teacher is assigned;
30 this (his) office would know only the beginning salary of teachers
and not their current salaries which are kept at the individual
schools; that he never refused to meet with the Union but he did
suggest deferring negotiation meeting with the Union until the New
35 York Supreme Court decided the issue of state aid to (religious)
Respondent's schools, which decision was expected and did issue in
June; that Respondent immediately commenced negotiating after receipt
of that decision and continued to do so, except for 3 weeks in August,
when both parties absented themselves for vacation.

40 5/ (Continued) not provide the requested information) is essentially
undisputed and consistent with the general tenor of all of
the evidence of record.

Brother Medard said he could have gotten the names, addresses and salaries from the checks after they came out of the computer and he also could have gotten some of this information from each of the schools. 6/

5 Harold S. Autern credibly testified that he is a manager of Managistics, Inc., a data processing bureau, which provides payroll service for Respondent; and that his business purchased Respondent's account from the now defunct Payroll Corporation of America in December, to take effect January 1, 1974.

10 15 20 Mr. Autern further testified that at the time his enterprise purchased Respondent's account, it could not provide the date requested by the Union because of the haphazard manner in which the prior payroll enterprise kept its records; that his company is now in the process of properly programing data from several Respondent sources, and will soon be able to provide the requested information; and that Respondent has asked him to provide the data. Mr. Autern was of the opinion that the Payroll Corporation of America could not have provided the data requested. He is currently printing out the payroll checks for all teachers, school-by-school. 7/

25 30 Mr. Paul Crossman credibly testified that he is the business manager for the Henry M. Hald Association and he participated in practically all of the negotiation sessions with the Union and had never heard a representative of the Respondent say he would not provide the information requested by the Union. 8/ He had heard representatives of Respondent in its own meetings, say that such information should be provided the Union. With regard to other internal meetings of the Hald Association, the witness testified as follows:

Q. Now, with regard to the policy meetings you mentioned, you said you recommended that you should supply the names and addresses and the information requested.

35 A. Right.

40 6/ I credit the literal testimony of Brother Medard because I received the impression that he was testifying truthfully and because his testimony is essentially consistent with the general tenor of all of the evidence of record.

45 7/ I credit the witness' testimony to the extent that he testified because it is conceivable that prior records were disorganized and required sometime for reworking. However, the witness did not testify about collecting the data for programing from each school rather than from the records of the previous payroll service.

50 8/ I credit this statement of the witness because it is corroborated by Brother Medard and because he appeared to be telling the truth and the fact that he did not hear such a statement does not mean that it was not made by Mr. Burke or Respondent.

Q. Was anything said at those meetings as far as providing the information with regard to Kearney or McDonnell?

A. I don't recollect that.

5

Q. You don't in fact remember it may have actually have been decided there not to give the information for Kearney or McDonnell?

10

MR. BURKE: If it would be of assistance to counsel, we are prepared to make a stipulation on that.

MR. FRIEDMAN: At those meetings?

MR. BURKE: Yes.

15

We specifically indicated that because those schools were closing and nobody would be employed there, that we were not bargaining for them as far as the contract renewal is concerned. That does not apply to bargaining on the effects of the decision to close.

20

But we were not bargaining for them under the contract for a salary re-opener, because they already terminated everyone.

25

MR. FRIEDMAN: Because of that you decided not to provide the names and addresses?

MR. BURKE: Right, and no information was made available for those two schools.

MR. FRIEDMAN: Fine.

30

Upon that stipulation, I would have no further questions of this witness, your Honor. 9/

35

Mr. Edward Burke credibly testified that he is the attorney for the Hald Association (Respondent) and chief spokesman in negotiations for the same at bargaining sessions with the Union.

Mr. Burke further testified that he never refused to meet with the Union for the purpose of collective bargaining; he explained:

40

A. There was a period of time when particular representatives of the Hald Association necessary to the bargaining would be out of town. We requested that there be deferment in the scheduling of dates at that time simply because we were unable to proceed during that time.

45

50 9/ I credit the testimony of the witness except his reasons for not meeting with the Union at times when members of Respondent were out of town. I do not credit this statement because I received the impression it was an excuse and because such reason was not communicated to the Union.

5 Also, there were times when, in the early part of the negotiation, the union was -- it was proposed to the union that we await the determination of the United States Supreme Court before proceeding to the resolution of the bargaining issues open under the re-opener provision of the '72 clause.

10 Now, meetings were held, both by way of introducing the parties that were involved in the negotiations, by general outlook of the issues, by requests for information which was made available and, in general, setting the stage for the bargaining unit that would be on throughout the summer months.

15 The union indicated they wished to proceed as if the Supreme Court decision was not a factor in the negotiations and, on occasion, requested meetings.

20 Now, we said to them that yes, we would meet if you felt we had to but we would suggest, however, that if you had nothing additional to say other than what you have said in the meetings that we have had, that you would reconsider again and see if there wouldn't be any benefit to both sides to wait.

25 With respect to the refusal to provide information to the Union, Mr. Burke testified as follows:

30 We indicated, at first, as is our normal practice that any request for the first time made for data or for opinions on things, we would take it under advisement and get back to it on the following meeting or as soon as possible thereafter.

35 Traditionally we did not make snap judgments on data presented to us for the first time. It was our opinion that in light of the availability of this information to the teachers, and in light of the fact that this was a bargaining session rather than a representation election, that it probably was not required of the association to make this information available.

40 However, we didn't have any strong objection to that. As time went on, we did attempt to develop a list of names and addresses.

45 Now, as far as salary is concerned, that was a subsequent request made of the association.

Similarly, as is our practice, when the request was made, we said we will look into it and come back with an answer. I think we did look into it. We determined that there was a legal obligation on the part of the employer to make this information

available. I advised our client -- my client to that effect. I suggested that we go about gathering this information even though it is going to be a rather painful and difficult experience.

5

Q. I ask you now to identify a group of papers titled "Memorandum" and addressed to you from me dated August 13, 1973.

(Handing.)

10

A. Yes.

This is a memorandum of law from Mr. Estock to me, which was prepared on or about August 13th at my request.

15

Q. And it deals with the names and addresses.

And did you state whether you advised your client to give the information requested?

20

A. Well, this particular point related specifically to salary. At the time I received this memorandum I was asked if further review was necessary in light of this, in effect, preliminary view.

I responded that no, this, in effect, tells us what our obligations are and it would be sufficient. Upon receipt of this memorandum I notified the Hald Association that they should gather the data.

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Mr. Burke also testified that there were negotiations concerning athletic stipends for the year 1972, and the parties more or less agreed to leave their arrangement out of the bargaining contract because they were traditionally handled by individual schools. He does not recall being asked by the Union for a school-by-school grid for 1973. The witness went on as follows:

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Q. How extensive were the negotiations that were involved?

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A. Well, after '72, which seemed like a full-time job for a lot of people around the clock, it was anticipated that the '73 negotiations would be not nearly as time-consuming.

We only had one item open for negotiation, that being money, and specifically salary and related provisions.

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We didn't have any working conditions; we didn't have any fringe benefits; we didn't have any complex language to draft, union rights or management rights or anything of that kind. So that it was anticipated that the negotiations would not be a summer-long project.

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In any event, there was ample time after the Supreme Court decision to freely view, discuss, negotiate and resolve all matters before the parties prior to the expiration of the agreement on September 31st.

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The Respondent did defer negotiation during the week of July 16 because several of their members were out of town and it did indicate that if the Union asked for more money the Respondent's response would be "no," until after the Supreme Court's decision, and for that reason, we suggested that we delay service, bargaining until the Court decision was made; Mr. Burke continued on cross-examination as follows:

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Q. At that point, by the way, just to get -- at the point that these discussions were taking place, the union had presented certain general proposals; right?

A. Right.

20

Q. Had the Hald Association responded with any at that point?

A. Well, we had given -- I can't say for sure. I could only speculate as to what was formally said.

25

I do know, however, that we viewed it as all of one package. And unless we knew what the finances were, some of the other less significant items had to await the determination of the bigger items. We just simply couldn't isolate items and make binding commitments without knowing what the over-all package was going to be.

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So I can't say precisely what was said.

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Mr. Burke said he would not deny that Mr. Basedow first asked him for a list of names and addresses of the teachers and in all probability he responded. When asked how and what was his response, Mr. Burke said:

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I would normally say to a request of that nature at that time that it would be better for the union to do its own work instead of asking us to do it, that you have ample opportunity to do it, that we don't have that opportunity to do it at the time and nevertheless, we will get back to you on it.

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He recalls that the Union first asked for salary information in early August. 10/

Based upon the foregoing credible evidence, I conclude and
5 find that during the months of March through August 31, in particular, the Union and the Respondent were obligated by agreement to bargain with respect to a wage reopener, new rates of pay and wages and hours of employment, for the 1973-1974 school year; that at no time prior or subsequent to March did the Union ever waive, upon clear
10 and unmistakable evidence, its right or duty to bargain or negotiate with Respondent on such rates of pay, wages and hours of employment; that the Union made the first of its repeated and continued requests of the Respondent to bargain on the aforestated subject of negotiation on January 8; that the bargaining teams of the Respondent and the
15 Union met for the first session on March 20 and again on March 29, at which time the Union requested a grid on its unit employees for the 1973-1974 school year; that the Union had previously received such a grid for the 1972-1973 school year; that during their meeting of March 29, Respondent suggested that the parties defer further
20 bargaining sessions until issuance of the Supreme Court's decision on aid to nonpublic religious schools; that the Union opposed such a deferral of the negotiations; that the parties nevertheless agreed to meet on April 10; that the Union did not agree to the delay of the negotiations and Respondent notified the Union on April 9 that it could not meet with it on April 10 and suggested and arranged a meeting for May 3; that Respondent and the Union met and bargained on nonsalary matters on several occasions during March through
25 October; that the parties met in a bargaining session on May 3 at which time the Union was presented a grid for the 1972-1973 school year; that the Union advised Respondent that it had requested a grid for the 1973-1974 school year and not for 1972-1973; that the Union was thereupon advised that Respondent would get back to it with respect to its request; that the Union then suggested the next session for May 8, 11 or 15, but the only response from Respondent was that it (Respondent) would await the afore described Supreme
30 Court decision and get back to the Union at that time; that the Union contacted Respondent about a bargaining session on May 8 and was advised by Respondent on May 10 that Respondent had pointed out the limited scope of the bargaining sessions, and that since new salary provisions would not become effective until September 1, it again suggested that bargaining sessions be deferred for a month or so when the uncertainty of governmental aid to its schools is
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45 10/ Literally, I credit the testimony of Mr. Burke not only because I received the impression that he was testifying truthfully but because his literal testimony, except his recollection of the date when the Union first asked for salary information, is essentially consistent with that of most of the other witnesses in this proceeding.

5 resolved by the Supreme Court decision; that Respondent further proposed that if the Union had additional information, Respondent would be happy to meet with it before the Court's decision; that the Union renewed its request for a bargaining session on May 21 and also requested a response to its salary proposals submitted to Respondent on March 15, to which it had not receive a response; that on June 15, the Union again requested Respondent to set a date (any date) to meet for negotiations on salaries of lay teacher employees in its unit; that on June 27 the Union received word from its attorney that there would be no governmental aid to religious (Respondent's) schools; that on June 27, Respondent, in response to the Union's letter of June 15, agreed to a bargaining session on July 6 or 10, and the parties met on July 6; that Respondent did not literally refuse to meet and bargain with the Union; but that Respondent's delay in meeting to bargain or negotiate with the Union between March 30 and August 31, and its failure to respond to the Union's proposals constituted refusal to bargain collectively in good faith with the representative of its employees, in violation of Section 8(a)(5) of the Act.

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I further conclude and find upon the same aforescribed evidence that at the bargaining session on July 6, the Union requested Respondent to provide it with the names and addresses of the teachers for the Hald Association, and indicating if a teacher is a chairman of any department or stipend member of some club or other organization; that Respondent responded that the Union did not need such information but it would get back to the Union with reference thereto; that at the same time (July 6) the Union renewed its request for the grid for the 1973-1974 school year, showing the names of new teachers hired; that the parties met again on July 13 at which time the Union again requested the grid and teachers salary information for the 1973-1974 school year; that counsel for Respondent then said he would get back to the Union but that securing the names, addresses and salaries of the teachers in the Union's unit was the Union's job and not Respondent's; that the Union had the names and addresses of about 420 of its 550 members of its unit; that the Union's acquisition of all such data (names etc.) was relevant and necessary to the Union's performance of its statutory and contractual duty to negotiate and bargain on the subject of salary, wages or income matters of employees in its unit; that the Union did not have adequate means (including steward system) to obtain the information requested; that to effectively perform its duty in this regard, the Union needed the data requested on all of the teachers in its unit during the period March through August; that if it might have been possible for the Union to secure said data on its own, it is clear it would have been an exceedingly onerous, if not an impossible task for it to obtain all of the data

5 during the period in question; that Respondent had some mechanical or automotive difficulty in providing the said requested information but it was not an onerous nor an impossible task to obtain the information from its individual schools or other alternative sources over the bargaining period of nearly 60 or 90 days; that it was considerably easier for the Respondent to furnish the said information than it was for the Union to obtain it on its own; that Respondent submitted some data to the Union on July 11, but such data was not the data requested by the Union; that on July 16 Respondent suggested a bargaining meeting for August 8 to which the Union objected but the parties agreed to a meeting which was held on August 8 with the Federal Mediation Service; that on August 15, Respondent mailed an extensive list of the names and addresses, without the salaries of the teachers, to the Union; that the list did not contain all of its school and it contained the names of some teachers whom it no longer employed and omitted the names of some newly employed teachers; that the Union renewed its request to Respondent for said data on August 27; that Respondent forwarded a list to the Union on September 10 or 11 which did contain salaries without other wages (stipends etc.) of the teachers and without reference to Bishop 10 McDonnell and Bishop Kearney schools; that Respondent admitted that it initially thought that it did not have to provide the requested information since there was no representative election case, until it learned it was legally required to do so; that Respondent admitted that it could have obtained the information from the checks of the 15 teachers or from the individual schools of the teachers; that aside from advising the Union late in the negotiation period that it had a problem with its computer system, the Respondent did not make an effort to notify the Union of any additional problem or of its 20 inability to provide said information during the negotiation period or thereafter; and that Respondent's failure to furnish the specific information first on the ground that it was not entitled to it, and secondly, because it had a problem with its computer system without exhausting other alternatives readily available to it, 25 is evidence of bargaining in bad faith; that such bad faith coupled with Respondent's failure to provide the Union with the requested information for more than a reasonable time constitutes a refusal 30 to bargain collectively in good faith with the representative of its employees, in violation of Section 8(a)(5) of the Act.

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Analysis and Conclusion

45 The questions presented for decision in the instant proceeding arise from a contractual and statutory obligation of the Union and the Respondent to bargain collectively in the interest of Respondent's employees, and to determine whether each party made an effort in good faith to discharge that obligation. The evidence upon which the determination of good faith bargaining is to be made is both documentary and testimonial, and the testimonial evidence 50 herein is almost free of conflict.

Thus, with respect to the Union's charge of refusal to bargain or bargaining in bad faith, it is well established by the evidence that while Respondent did not advise the Union that it would not meet with it to bargain on the subject of salary (including other wages), it nevertheless did suggest that the parties delay the bargaining sessions for a month, pending a decision by the State Supreme Court on aid to private religious schools. If the Respondent's suggestion to delay negotiations stood alone, unaccompanied by long delays in scheduling meetings, consenting to meet and actually not meeting with the Union, as well as, actively participating in the bargaining sessions by not responding to the Union's proposals on salary adjustments etc., its suggestion could not be construed as an act of refusal to bargain in good faith. However, since the Union did not agree to the deferral of negotiations, but repeatedly insisted on frequent bargaining sessions and a response to its salary proposal, Respondent's conduct demonstrates that it unilaterally delayed negotiations from March 29 to May 3, and further deferred negotiations from May 3 to July 6, after the Court issued its decision. During this entire period, the Respondent did not respond to the Union's salary proposal. At this time, the schools were closed and negotiations were further complicated by their closing as shown, infra, in the discussion of the Union's request for information from Respondent.

The evidence is not in dispute that the Respondent was obligated by its collective-bargaining agreement with the Union, to bargain with respect to a wage reopener during the period March through August 31. Although Respondent met with the Union on March 20 and 29, when it was given the Union's salary proposal and its request for a grid for the 1973-1974 school year, Respondent, nevertheless, subsequently advised the Union that it had to break its commitment to meet with it on April 10 and suggested that the next bargaining session be held on May 3. On May 3, the parties met, and Respondent presented the Union with a grid for 1972-1973 instead of the 1973-1974 school year. It did not have a response to the Union's wage proposal. Respondent did not respond to the Union's request for a bargaining session on May 8, 11 or 15 but later, on June 27, after the Court issued its decision on aid to religious schools, suggested a bargaining session for July 6 or 10. Respondent had previously advised the Union that its response to the Union's salary proposal prior to the Court's decision would probably have been "no," and therefore, any bargaining prior to that decision would have been futile. It is clear that while the law does not require an Employer or a union to make concessions on its bargaining position, it does require the parties to meet or to communicate in an effort to negotiate their differences. It can hardly be expected that such differences could be resolved in the absence of such bargaining communication in good faith. Hence, the evidence is abundantly persuasive that Respondent, by its conduct in delaying bargaining sessions and failing to respond to the Union's salary proposal, refused to bargain in good faith in violation of the Act.

5 It is a gross inconsistency of Respondent to admit that it suggested the parties to defer negotiations until after the Court's decisions, and thereafter delayed and avoided meeting with the Union until after the issuance of the Court's decision, and at the same time, now contend that it did not refuse to bargain with the Union in good faith. Nor can it be reasonably maintained by Respondent that such a delay was necessary, reasonable or unavoidable, because Respondent could have bargained with the Union on the basis of its current financial status, as it was ultimately compelled to do; or it could have bargained tentatively on the prospect of its receipt of governmental aid. Moreover, since the record is devoid of any clear and unmistakable evidence that the Union previously agreed to waive its right to bargain on the wage reopeners, Respondent's intimation that it did so is untenable.

10 15 Although Respondent engaged in meetings and sessions with the Union on matters unrelated to the wage reopeners, its concededly cooperative conduct in this regard cannot, in the context of Respondent's total course of behavior, be found sufficient to satisfy its obligation to bargain pursuant to an express provision for wage reopeners in its current collective bargaining agreement. Moreover, since the Union opposed deferral of the negotiations until the Court issued its decision, Respondent's suspension or delay of the negotiations with the Union from March 29 to July 6, and beyond, was a unilateral and arbitrary act, and as such, is evidence of its lack of good faith to bargain collectively. Hence, Respondent's conduct in delaying negotiations under these circumstances was a refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

20 25 30 35 The Caroline Farms case cited by counsel for Respondent is not applicable to the facts in this proceeding because the facts therein clearly established the Employer engaged in hard bargaining, as distinguished from no bargaining, and the evidence failed to establish that the Employer therein delayed negotiations as the Respondent did in the instant case.

40 45 With respect to the Union's charge that Respondent refused to furnish certain information it requested, it is well established by the evidence of record that the Union first requested a grid of its unit teachers for the 1973-1974 school year, during its bargaining meeting with Respondent on or before March 29. Respondent responded that the Union did not need such information but that it would get back to the Union on that matter. Respondent did not meet with the Union again until May 3, at which time it presented the Union with a grid for the 1972-1973 school year. The Union renewed its request for a 1973-1974 grid, specifying the inclusion of new teachers for

the 1973-1974 school year. The Union again renewed its request for the said grid during its bargaining meetings with Respondent on July 6, at which time, it also requested the names, addresses and salaries of its unit teachers. Later in July, the Union further defined salary in its request to include other wages. At practically all times, Respondent said it would get back to the Union with respect to the matter of this information, but it felt securing such information was the duty of the Union and not the Respondent's.

The evidence of record also clearly established that the information requested by the Union is relevant and necessary to the Union's effective discharge of its obligation to bargain for unit teachers on matters relating to their salaries, as affected by their tenure, transfers, etc. Furthermore the evidence amply demonstrates that the names and addresses of the teachers whose salaries, tenure etc., for which the Union is obligated to bargain, were only partially available to the Union and the latter did not have any adequate efficacy by which to obtain them. Specifically, since the unidentified or unreachable unit teachers reside in various and distant locations throughout the New York metropolitan area, and since the individual schools in which they taught were closed for the summer season and a steward system was not established to have been effective or in operation during the period in question, it would have been considerably difficult if not impossible for the Union to obtain the data related to the salaries of such teachers without the information it requested. On the contrary, while the Respondent could not have furnished the requested data with the degree of facility and expidition with which it normally would have been able to do, had its computer system been functioning properly, it was not impossible, too burdensome, nor unreasonable for the Respondent to furnish the requested data from its individual schools or from the teachers checks which it mailed to the teachers twice per month. Consequently, under these circumstances, it is clear that Respondent was required to furnish the requested data, the grid and the names, addresses and salaries of its teachers because it was relevant and necessary to an effective discharge of the Union's duty. Magma Copper Company, Sam Marvel Division, 208 NLRB 53.

Although the evidence is clear that Respondent submitted a list of the names and addresses of teachers to the Union on August 15, such list was submitted nearly 40 days after the Union requested it and only 16 days before expiration of the bargaining agreement on August 31. However, even so, this list did not contain the salary data, the names of some newly employed teachers, the names of all schools involved, and it contained the names of some teachers not now employed by Respondent. The Union thereupon renewed its

request for the same data to Respondent on August 27, and on September 10 or 11, Respondent forwarded to the Union a list containing the flat salary data without other wages (stipends) as specifically requested by the Union in July. Also omitted from the list were the names of Bishop McDonnell and Bishop Kearney High Schools. Although Brother Medard testified that Respondent had invited union representatives to his office to obtain what information that was available, the witness also said the specific information requested by the Union was not in his office. Furthermore the Union did not confirm that such an offer had been made and the record does not contain any written communication of such an offer. The evidence, therefore, does not establish that Brother Medard ever extended an unequivocal opportunity to the Union to come to its facilities to obtain the information requested even if he had such information in his office. Thus, the question presented for decision is whether the manner in which Respondent furnished information requested and its failure to furnish all of the information, as requested by the Union, constitute bargaining in bad faith as alleged by the Union.

In answering this last question raised by the complaint and the evidence, it is observed that Respondent, through its legal counsel, admitted at the hearing that initially Respondent did delay furnishing the requested information because, initially, it did not believe it was legally required to furnish it. This admission is amply supported by Respondent's statements to Union representatives at the times they requested the information. Under these circumstances, it would appear that the Respondent was laboring under an honest mistake of law or opinion. In any event, even if such a mistake did not constitute bad faith, I am not persuaded that Respondent would be exonerated of the charge of refusal to bargain in good faith since it failed to bargain, in reliance upon its erroneous position that it did not have to provide the requested information. However, be that as it may, when I review and reflect upon the total course of conduct of the Respondent in bargaining with the Union since March, I am persuaded by the evidence that its initial and subsequent delays, in furnishing a reasonably accurate list of the specific data requested by the Union, was not necessarily an honest mistake of law or opinion, but rather, evidence of an extension of its failure to bargain in good faith since March 29. This position is especially supported when the intervening delays are considered along with the piece meal and incomplete fashion in which Respondent furnished the Union with what information it did provide, in the mist of the Union's repeated requests for the specific information and meetings to bargain. Since the requested data was relevant and necessary to an effective discharge of the Union's statutory and contractual duty to bargain collectively with Respondent on behalf of its unit employees, such bargaining in bad faith by Respondent constitutes a refusal to bargain in violation of Section 8(a)(1) and (5) of the Act. N.L.R.B. v. Reed & Prince Manufacturing Company, 1st Cir., 205 F. 2d 131. However, nothing in

the findings in this proceeding should be interpreted as being inconsistent with the findings of the Administrative Law Judge in the NLRB proceeding, Case No. 29-CA-3336, with respect to the unit employees now employed at Bishop Kearney High School.

5

IV. The Effect of the Unfair Labor Practices Upon Commerce

10 The activities of the Respondent set forth in section III, above, occurring in connection with the Respondent's operations described in section I, above, have a close, intimate and substantial relationship to trade, traffic and commerce among the several states and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

15

V. The Remedy

20 Having found that the Respondent has engaged in unfair labor practices, it will be recommended that Respondent cease and desist therefrom and take certain affirmative action to effectuate the policies of the Act.

25 Having found that the Respondent has refused to bargain collectively with the Union, it will be recommended that the Respondent, upon request, bargain with the Union as the exclusive representative of its employees in the appropriate unit.

30 Having found that Respondent has delayed giving and has failed and refused to give the Union, upon its request, the grid and all of the names, addresses, salary and other wages of all of its teachers (including newly employed teachers) for the 1973-1974 school year, it will be recommended that the Respondent provide the Union with the aforescribed data as requested by the Union.

35

Because of the character and scope of the unfair labor practices herein found, the recommended Order will provide that the Respondent cease and desist from in any other manner interfering with, restraining, and coercing employees in the exercise of their rights guaranteed by Section 7 of the Act.

40

Upon the basis of the above findings of fact and upon the entire record in the case, I make the following:

45

Conclusions of Law

1. Henry M. Hald High School Association, the Respondent, is an employer engaged in commerce within the meaning of Section 2(6) and (7) of the Act.

2. Lay Faculty Association, Local 1261, American Federation of Teachers, AFL-CIO, is a labor organization within the meaning of Section 2(5) of the Act.

5 3. All lay-faculty employees (except agents and supervisors) of Respondent, Henry M. Hald High School Association constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act.

10 4. At all times on and after January 8, 1973, the Union has been the exclusive representative of all the employees in said unit for the purpose of collective bargaining with respect to rates of pay, wages (salary) hours of employment, and other conditions of employment.

15 5. By failing and refusing on and after March 29 to confer timely and promptly with the Union for the purpose of bargaining on the subject of wages (salary) and wage related matters, and by failing and refusing to furnish the Union, upon its request, with the names, 20 addresses, salary and other wages of all of its teacher's in the said bargaining unit, Respondent has engaged in unfair labor practices within the meaning of Section 8(a)(5) and (1), and Section 2(6) and (7) of the Act.

25 6. The aforesaid unfair labor practices affects commerce within the meaning of Section 2(6) and (7) of the Act.

30 Upon the foregoing findings of fact, conclusions of law and the entire record, and pursuant to Section 10(c) of the Act, I hereby issue the following recommended: 11/

ORDER

35 Respondent, Henry M. Hald High School Association, its officers, agents, successors and assigns, shall:

1. Cease and desist from:

40 (a) Refusing to bargain collectively with the Union as the exclusive representatives of the employees in the unit herein found to be appropriate.

45 11/ In the event no exceptions are filed as provided by Section 102.46 of the Rules and Regulations of the National Labor Relations Board, the findings, conclusions and recommended Order herein shall, as provided in Section 102.48 of the Rules and Regulations, be adopted by the Board and become its findings, conclusions and Order, and all objections thereto shall be deemed waived for all purposes.

(b) Refusing to furnish the Union with the names, addresses, salary and other wages of all employees (teachers) in the unit herein found to be appropriate.

5 (c) In any like manner from interfering with, restraining or coercing its employees in the exercise of rights guaranteed in Section 7 of the Act.

10 2. Take the following affirmative action which is necessary to effectuate the policies of the Act:

15 (a) Upon request, bargain with Lay Faculty Association, Local 1261, American Federation of Teachers, AFL-CIO, as the exclusive representative of Respondent's employees in the unit herein found appropriate and embody any understanding reached in a signed agreement.

20 (b) Upon request, provide the Lay Faculty Association, Local 1261, American Federation of Teachers, AFL-CIO, with the names, addresses, salary and other wages of all employees (teachers) in the unit herein found to be appropriate.

25 (c) Post at all its schools and facilities where notices to unit teachers are customarily posted, copies of the attached notice marked "Appendix". 12/ Copies of the notice, on forms provided by the Regional Director for Region 29, after being duly signed by Respondent's authorized representative, shall be posted by it for a period of 60 consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to insure that said notices are not altered, defaced, or covered by any other material.

30 (d) Notify the Regional Director for Region 29, in writing, within 20 days from the receipt of this Order, what steps the Respondent has taken to comply herewith.

Dated at Washington, D. C.

May 16, 1974


Elbert B. Gadsden
Administrative Law Judge

50 12/ In the event that the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall be changed to read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."



NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL NOT refuse to bargain collectively with LAY FACULTY ASSOCIATION, LOCAL 1261, AMERICAN FEDERATION OF TEACHERS, AFL-CIO, by refusing to meet with it timely upon its request, or by refusing to give it, upon request, the names, addresses, salary and other wages of all employees (teachers) in the unit herein found to be appropriate.

WE WILL NOT in any like manner interfere with, restrain or coerce our employees in the exercise of any rights guaranteed to them by Section 7 of the National Labor Relations Act, as amended.

WE WILL, upon request, bargain collectively in good faith with Local 1261 as the exclusive bargaining representative of all the employees in the bargaining unit herein found appropriate.

The appropriate bargaining unit is composed of lay teachers, exclusive of clerical, custodial, or other personnel who are agents of Respondent or supervisors within the meaning of Section 2(11) of the Act.

WE WILL, upon request, provide Local 1261 with the data and information hereinabove requested, as well as any other relevant information subsequently requested to which it is entitled.

HENRY M. HALL HIGH SCHOOL
ASSOCIATION
(Employer)

Dated _____ By _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, 4th Floor, Brooklyn, New York 11241, (Tel. No. 212 - 596-3535).

MFJ

D-9117
Brooklyn, N.Y.

213 NLRB No. 75

LAWY. Sec. 6

UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

HENRY M. HALD HIGH SCHOOL
ASSOCIATION

and

Case 29--CA--3482

LAY FACULTY ASSOCIATION,
LOCAL 1261, AMERICAN FEDERATION
OF TEACHERS, AFL-CIO

DECISION AND ORDER

On May 16, 1974, Administrative Law Judge Elbert D. Gadsden issued the attached Decision in this proceeding. Thereafter, Respondent filed exceptions and a supporting brief, and the General Counsel filed a brief in support of the Administrative Law Judge's Decision.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the record and the attached Decision in light of the exceptions and briefs, and has decided to affirm the rulings, findings, and conclusions of the Administrative Law Judge and to adopt his recommended ^{1/}
2/ Order.

1/ The Respondent has excepted to certain credibility findings made by the Administrative Law Judge. It is the Board's established policy not to overrule an Administrative Law Judge's resolutions with respect to credibility unless the clear preponderance of all of the relevant evidence convinces us that the resolutions are incorrect. Standard Dry Wall Products, Inc., 91 NLRB 544 (1950), enfd. 188 F.2d 362 (C.A. 3, 1951). We have carefully examined the record and find no basis for reversing his findings.

2/ The Administrative Law Judge inadvertently failed to specify in his recommended Order that the appropriate bargaining unit with respect to (continued)

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board adopts as its Order the recommended Order of the Administrative Law Judge and hereby orders that the Respondent, Henry M. Hald High School Association, Brooklyn, New York, its officers, agents, successors, and assigns, shall take the action set forth in the said recommended Order.

Dated, Washington, D.C. SEP 24 1974

Edward B. Miller, Chairman

John H. Fanning, Member

Howard Jenkins, Jr., Member

NATIONAL LABOR RELATIONS BOARD

2/ which Respondent is required to furnish information includes the teachers at Bishop McDonnell and Bishop Kearney High Schools. Although these two schools had closed prior to the hearing herein and are no longer in the bargaining unit, they were still included in the unit as of the date of the Union's request for information. Moreover, the teachers employed at the two schools retained certain rights, particularly concerning transfers, under the Union's collective-bargaining agreement with Respondent, and the Union is entitled to the requested information in order to effectively enforce the contract with respect to these rights. Accordingly, we find that Respondent is required to furnish information with respect to the unit employees employed at the two schools prior to September 1, 1973.

98 a

THE FOLLOWING DOCUMENT IS NOT PART OF
RECORD.

IT HAS BEEN INCLUDED IN THE APPENDIX AT
RESPONDENT's REQUEST ONLY.



NATIONAL LABOR RELATIONS BOARD

REGION 29

16 Court Street

Brooklyn, New York 11201

Telephone 596-3535

Henry M. Hald High School Assn.
345 Adams Street
Brooklyn, New York 11201

JAN 22 1975

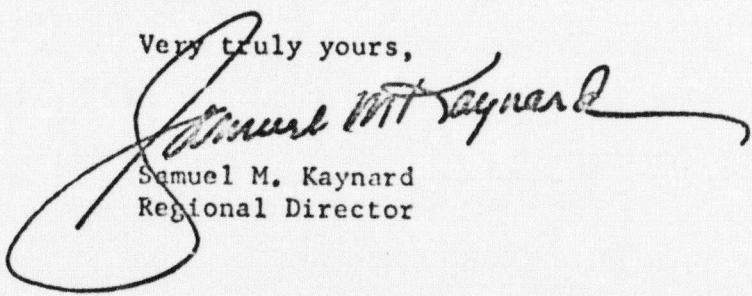
Re: Henry M. Hald High School Association
Case No. 29-CA-3482

Gentlemen:

Satisfactory evidence having been submitted of compliance with the Board Order in the above case insofar as it requires certain affirmative action to be taken, and no evidence having been presented of the failure to comply with the requirement for refraining from engaging in certain conduct, the instant case is hereby closed and will remain closed, conditioned upon continued compliance with said Board Order.

You are cautioned that subsequent violations of the National Labor Relations Act may become the basis for further proceedings in the instant case despite its formal closing.

Very truly yours,


Samuel M. Kaynard
Regional Director

cc: Lay Faculty Assn., Local 1261, AFT, AFL-CIO, 175-20 Wexford Terrace, Jamaica Estates, New York 11432; Clifton, Budd & Burke, 420 Lexington Avenue, Rm. 28114, New York, New York 10017, Attn: H.G. Estock; Eugene M. Kaufman, Esq., Attn: Noel Cohen, Counsel, New York State United Teachers, 260 Park Avenue South, New York, New York 10010

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

NATIONAL LABOR RELATIONS BOARD,)
Petitioner,)
v.) No. 76-4258
HENRY M. HALD HIGH SCHOOL ASSOCIATION,)
Respondent.)

CERTIFICATE OF SERVICE

The undersigned certifies that three (3) copies of the Board's appendix in the above-captioned case has this day been served by first class mail upon the following counsel at the address listed below:

Clifton, Budd & Burke, Esq.
Attn: Edward Burke, Esq.
420 Lexington Avenue
New York, New York

Elliott Moore

Elliott Moore
Elliott Moore
Deputy Associate General Counsel
NATIONAL LABOR RELATIONS BOARD

Dated at Washington, D. C.

this 3rd day of March, 1977.

